



Roy Cooper, Governor
State of North Carolina

GOVERNOR ROY COOPER'S OBJECTIONS AND VETO MESSAGE:

House Bill 467, "AN ACT TO CLARIFY THE REMEDIES AVAILABLE IN PRIVATE NUISANCE ACTIONS AGAINST AGRICULTURAL AND FORESTRY OPERATIONS"

The agriculture and forestry industries are vital to our economy and we should encourage them to thrive.

But nuisance laws can be used to protect property rights and make changes for good. We used nuisance laws to force the Tennessee Valley Authority to stop air pollution from flowing into North Carolina and we won damages to improve air quality.

Special protection for one industry opens the door to weakening our nuisance laws in other areas which can allow real harm to homeowners, the environment and everyday North Carolinians.

Therefore, I veto the bill.

A handwritten signature in black ink that reads "Roy Cooper".

Roy Cooper
Governor

The bill, having been vetoed, is returned to the Clerk of the North Carolina House of Representatives on this 5th day of May, 2017, at 10:03am for reconsideration by that body.

RECEIVED

MAY 05 2017

10:05am

A handwritten signature in red ink, appearing to be "Ji My".

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2017

HOUSE BILL 467
RATIFIED BILL

Arwen Blessing
RECEIVED APR 27 2017
432

AN ACT TO CLARIFY THE REMEDIES AVAILABLE IN PRIVATE NUISANCE ACTIONS AGAINST AGRICULTURAL AND FORESTRY OPERATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 57 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"§ 106-702. Limitations on private nuisance actions against agricultural and forestry operations.

(a) The compensatory damages that may be awarded to a plaintiff for a private nuisance action where the alleged nuisance emanated from an agricultural or forestry operation shall be as follows:

- (1) If the nuisance is a permanent nuisance, compensatory damages shall be measured by the reduction in the fair market value of the plaintiff's property caused by the nuisance, but not to exceed the fair market value of the property.
- (2) If the nuisance is a temporary nuisance, compensatory damages shall be limited to the diminution of the fair rental value of the plaintiff's property caused by the nuisance.

(b) If any plaintiff or plaintiff's successor in interest brings a subsequent private nuisance action against any agricultural or forestry operation, the combined recovery from all such actions shall not exceed the fair market value of his or her property. This limitation applies regardless of whether the subsequent action or actions were brought against a different defendant than the preceding action or actions.

(c) This Article shall apply to any private nuisance claim brought against any party based on that party's contractual or business relationship with an agricultural or forestry operation.

(d) This Article does not apply to any cause of action brought against an agricultural or forestry operation for negligence, trespass, personal injury, strict liability, or other cause of action for tort liability other than nuisance, nor does this Article prohibit or limit any request for injunctive relief or punitive damages that are otherwise available."

SECTION 2.(a) This act is effective when it becomes law and applies to causes of action commenced or brought on or after that date.



SECTION 2.(b) If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

In the General Assembly read three times and ratified this the 27th day of April, 2017.

Philip E. Bergen
Presiding Officer of the Senate
President ² PRO TEMPORE

Tim Moore
Speaker of the House of Representatives

VETO
Roy Cooper

Roy Cooper
Governor

Approved _____ .m. this _____ day of _____, 2017

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ji [signature]