

ASSEMBLY, No. 3066

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

SYNOPSIS

Authorizes award of reasonable costs and attorney fees to farmers prevailing in certain farm management disputes.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/24/2020)

1 AN ACT concerning attorney fees and costs in certain farm
2 management disputes and amending P.L.1998, c.48, and
3 supplementing Title 4 of the Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. Section 5 of P.L.1998, c.48 (C.4:1C-10.1) is amended to read
9 as follows:

10 5. a. Any person aggrieved by the operation of a commercial
11 farm shall file a complaint with the applicable county agriculture
12 development board or the State Agriculture Development Committee
13 in counties where no county board exists prior to filing an action in
14 court.

15 b. In the event the dispute concerns activities that are addressed
16 by an agricultural management practice recommended by the
17 committee and adopted pursuant to the provisions of the
18 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.),
19 the county board shall hold a public hearing and issue findings and
20 recommendations within 60 days of the receipt of the complaint.

21 c. In the event the committee has not recommended an
22 agricultural management practice concerning activities addressed by a
23 complaint, the county board shall forward the complaint to the
24 committee for a determination of whether the disputed agricultural
25 operation constitutes a generally accepted agricultural operation or
26 practice. Upon receipt of the complaint, the committee shall hold a
27 public hearing and issue its decision, in writing, to the county board.
28 The county board shall hold a public hearing and issue its findings and
29 recommendations within 60 days of the receipt of the committee's
30 decision.

31 d. Any person aggrieved by the decision of the county board shall
32 appeal the decision to the committee within 10 days. The committee
33 shall schedule a hearing and make a determination within 90 days of
34 receipt of the petition for review.

35 e. The decision of the State Agriculture Development Committee
36 shall be binding, subject to the right of appeal to the Appellate
37 Division of the Superior Court. Any decision of a county agriculture
38 development board that is not appealed shall be binding.

39 f. When a respondent prevails in an action brought pursuant to
40 this section because the commercial agricultural operation, activity,
41 practice or structure is found to be entitled to the irrebuttable
42 presumption established in section 7 of P.L.1983, c.31 (C.4:1C-10),
43 the board, the committee, or the court, as applicable, shall award
44 reasonable costs and attorney fees to the prevailing respondent unless
45 the complainant demonstrates by a preponderance of the evidence that
46 the claim was brought in good faith.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 A respondent seeking an award under this section shall submit an
2 application to the board, committee, or court, as appropriate, detailing
3 the costs and attorney fees incurred in the defense of the complaint. If
4 the board, committee, or court determines by **clear and convincing**
5 **evidence** a preponderance of the evidence that the claim was not
6 brought in good faith, the board, committee, or court shall determine if
7 the costs and attorney fees, or a portion thereof, are reasonable, and
8 shall issue an order requiring the complainant to pay the reasonable
9 costs and attorney fees to the respondent.

10 (cf: P.L.1998, c.48, s.5)

11
12 2. (New section) a. Notwithstanding any provision in this title to
13 the contrary, there shall exist a presumption that the taking of wildlife
14 by a farmer that is in accord with all State and federal laws, rules, and
15 regulations shall not constitute a violation of any provision of this title
16 involving alleged cruelty to, or inhumane treatment of, an animal.

17 b. In any civil action brought pursuant to R.S.4:22-26 in which the
18 respondent prevails by asserting the presumption in subsection a. of
19 this section as a defense, the court shall award reasonable costs and
20 attorney fees to the prevailing respondent unless the complainant
21 demonstrates by a preponderance of the evidence that the claim was
22 brought in good faith.

23 A respondent seeking an award under this section shall submit an
24 application to the court detailing the costs and attorney fees incurred in
25 the defense of the complaint. If the court determines by a
26 preponderance of the evidence that the claim was not brought in good
27 faith, the court shall determine if the costs and attorney fees, or a
28 portion thereof, are reasonable, and shall issue an order requiring the
29 complainant to pay the reasonable costs and attorney fees to the
30 respondent.

31
32 3. This act shall take effect immediately and shall apply to all
33 actions commenced after the effective date of this act.

34 35 36 STATEMENT

37
38 This bill would permit a farmer who prevails in a civil case,
39 where the farmer is engaged in lawful farming activities under the
40 “Right to Farm Act,” the opportunity to collect reasonable costs and
41 attorney fees against the complainant if the complainant cannot
42 show by preponderance of evidence that the claim was brought in
43 good faith. The bill further clarifies that wildlife management
44 activities undertaken by a farmer that are in accord with State and
45 federal law are presumed to not constitute animal cruelty and that a
46 farmer may collect reasonable costs and attorney fees against a
47 complainant in a civil animal cruelty action if the complainant
48 cannot show by preponderance of evidence that the claim was
49 brought in good faith.