

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Agriculture

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BILL: SB 1472

INTRODUCER: Senator Bradley

SUBJECT: Organic Material Products

DATE: March 17, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Burse</u>	<u>Becker</u>	<u>AG</u>	<b>Favorable</b>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 1472 defines “organic material” and revises other definitions. The bill prohibits local governments from adopting any ordinance, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit the collection, storage, processing, or distribution of organic material products.

The bill takes effect July 1, 2023.

**II. Present Situation:**

**“Right to Farm” Laws; Generally**

In the 1970s, states began to identify the potential conflicts between farmers and developers as urban sprawl crept into rural, agricultural areas. One of the initial concerns was that the relocation of city dwellers into agricultural areas would result in a rash of very expensive nuisance lawsuits once the new neighbors were confronted with the sensory nature of farm life, complete with an inescapable array of odors, loud noises, dust, and other side-effects.<sup>1</sup>

In an effort to protect farms and agricultural operations from the encroaching sprawl, states passed anti-nuisance laws that are referred to as “Right to Farm” laws. These laws, enacted in all 50 states, protect agricultural production against some nuisance lawsuits. The laws do not grant absolute immunity but generally provide protections for defendants based upon a “coming to the nuisance” defense theory. These laws provide a liability shield for pre-existing agricultural operations when changes are made to the use of nearby parcels, such that the plaintiffs are described as “coming to the nuisance.”<sup>2</sup> The Florida Right to Farm Act was enacted in 1979.<sup>3</sup>

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<sup>1</sup> Alexia B. Borden and Thomas R. Head, III, *The “Right To Farm” In The Southeast – Does it Go Too Far?* (2007).

<sup>2</sup> *Id.*

<sup>3</sup> Chapter 79-61, ss. 1-2, Laws of Fla.

## Nuisance

A nuisance is described as an activity, condition, or situation created by someone that significantly interferes with another person's use or enjoyment of their property. A private nuisance affects a person's private right that is not common to the public while a public nuisance is an interference that affects the general public, for example, a condition that is dangerous to health or community standards.<sup>4</sup>

## The Florida Right to Farm Act

The Florida Right to Farm Act protects farm operations from nuisance lawsuits if the operations comply with generally accepted agricultural and management practices.<sup>5</sup>

The Florida Right to Farm Act states that a farm operation cannot be classified as a public or private nuisance if the farm:

- Has been in operation for 1 year or more since its established date of operation;
- Was not a nuisance when it was established; and
- Conforms to generally accepted agricultural and management practices.<sup>6</sup>

However, the following four unsanitary conditions constitute evidence of a nuisance:

- The presence of untreated or improperly treated human waste, garbage, offal, dead animals, dangerous waste materials, or gases which are harmful to human or animal life;
- The presence of improperly built or improperly maintained septic tanks, water closets, or privies;
- The keeping of diseased animals which are dangerous to human health, unless the animals are kept in accordance with a current state or federal disease control program; or
- The presence of unsanitary places where animals are slaughtered, which may give rise to diseases which are harmful to human or animal life.<sup>7</sup>

Additionally, a farm operation cannot be classified as a public or private nuisance due to a change:

- In ownership;
- In the type of farm product that is produced;
- In conditions in or around the locality of the farm; or
- Made in compliance with Best Management Practices adopted by local, state, or federal agencies.<sup>8</sup>

The Florida Right to Farm Act, however, may not be construed to permit an existing farm operation to increase to a more excessive farm operation with regard to noise, odor, dust, or fumes where the existing operation is adjacent to an established homestead or business.<sup>9,10</sup>

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<sup>4</sup> BLACK'S LAW DICTIONARY (11<sup>th</sup> ed. 2019).

<sup>5</sup> Section 823.14, F.S.

<sup>6</sup> Section 823.14(4)(a), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> Section 823.14(4)(b), F.S.

<sup>9</sup> Section 823.14(5), F.S.

<sup>10</sup> In an effort to eliminate duplication of regulatory authority over farm operations, local governments may not adopt an

### III. Effect of Proposed Changes:

SB 1472 revises definitions for the following terms:

- “Farm”
- “Farm operation”
- “Farm product”

The bill defines “organic material,” to mean vegetative matter resulting from landscaping maintenance or land clearing operations. The term includes clean wood and materials such as tree and shrub trimmings, grass clippings, palm fronds, trees and tree stumps, and associated rocks and soils.

The bill provides the collection, storage, processing, or distribution of organic material products are deemed a bona fide farm operation and the lands associated with the operation are deemed agricultural and are protected from local government oversight.

The bill takes effect July 1, 2023.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

None.

#### E. Other Constitutional Issues:

None.

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ordinance or similar policy to prohibit or limit an activity of a bona fide farm operation on land that is classified as agricultural land in accordance with statute, where the activity is regulated through implemented best management practices or certain interim measures. The full text of this prohibition is contained in s. 823.14(6), F.S.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 823.14 of the Florida Statutes.

**IX. Additional Information:**

## A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

## B. Amendments:

None.