

# Agricultural Operations and Sustainable Agriculture

This Act enables agricultural operations to incorporate sustainable agricultural practices without necessarily being deemed a nuisance by local ordinances or zoning regulations. The Act requires any administrative regulation promulgated by any agency that establishes standards for harvesting or producing agricultural crops in a sustainable manner be based on practices outlined in the Act. Those are science-based practices that are supported by research and the use of technology, demonstrated to lead to broad outcomes-based performance improvements that meet the needs of the present, and that improve the ability of future generations to meet their needs while advancing progress toward environmental, social, and economic goals and the well-being of agricultural producers and rural communities.

Submitted as:

Kentucky

[HB 486 \(Enrolled version\)](#)

Status: Enacted into law in 2010.

## Suggested State Legislation

(Title, enacting clause, etc.)

1           Section 1. [*Short Title.*] This Act shall be cited as “An Act to Enable Agricultural  
2 Operations to Adopt Sustainable Agricultural Practices.”

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4           Section 2. [*Agricultural Operations and Sustainable Agriculture Practices.*]

5           (A) It is the declared policy of [this state] to conserve, protect, and encourage the  
6 development and improvement of its agricultural land and silvicultural land for the production of  
7 food, timber, and other agricultural and silvicultural products. When nonagricultural land uses  
8 extend into agricultural and silvicultural areas, agricultural and silvicultural operations often  
9 become the subject of nuisance suits or legal actions restricting agricultural or silvicultural  
10 operations. As a result, agricultural and silvicultural operations are sometimes either curtailed or  
11 forced to cease operations. Investments in farm and timber improvements may be discouraged. It  
12 is the purpose of this section to reduce the loss to the state of its agricultural and silvicultural  
13 resources by clarifying the circumstances under which agricultural and silvicultural operations  
14 may be deemed to be a nuisance or interfered with by local ordinances or legal actions.

15           (B) No agricultural or silvicultural operation or any of its appurtenances shall be or  
16 become a nuisance or trespass, private or public, or be in violation of any zoning ordinance, or be  
17 subject to any ordinance that would restrict the right of the operator of the agricultural or  
18 silvicultural operation to utilize normal and accepted practices, by any changed conditions in or  
19 about the locality thereof after the same has been in operation for [more than one] year, when the  
20 operation was not a nuisance at the time the operation began. The provisions of this subsection  
21 shall not apply whenever a nuisance, trespass, or zoning violation results from the negligent  
22 operation of an agricultural or silvicultural operation or its appurtenances.

23           (C) (1) For the purposes of this section, “agricultural operation” includes, but is not  
24 limited to, any facility for the production of crops, livestock, equine, poultry, livestock products,  
25 poultry products, horticultural products, and any generally accepted, reasonable, and prudent  
26 method for the operation of a farm to obtain a monetary profit that complies with applicable laws  
27 and administrative regulations, and is performed in a reasonable and prudent manner customary

28 among farm operators. Agricultural practices protected by this section shall include, but not be  
29 limited to, fertilizer application, the application of pesticides or herbicides that have been  
30 approved by public authority, planting, cultivating, mowing, harvesting, land clearing, and  
31 constructing farm buildings, roads, lakes, and ponds associated with a farming operation.

32 (2) An agricultural operation may include the practice of sustainable agriculture.  
33 For purposes of this section, “sustainable agriculture” includes science-based practices that are  
34 supported by research and the use of technology, demonstrated to lead to broad outcomes-based  
35 performance improvements that meet the needs of the present, and that improve the ability of  
36 future generations to meet their needs while advancing progress toward environmental, social,  
37 and economic goals and the well-being of agricultural producers and rural communities.  
38 Sustainable agriculture may use continuous improvement principles, with goals that include  
39 increasing agricultural productivity, improving human health through access to safe, nutritious,  
40 and affordable food, and enhancing agricultural and surrounding environments, including water,  
41 soil, and air quality, biodiversity, and habitat preservation.

42 (D) For the purposes of this section, “silvicultural operation” includes timber harvest, site  
43 preparation, slash disposal including controlled burning, tree planting, precommercial thinning,  
44 release, fertilization, animal damage control, reasonable water resource management, insect and  
45 disease control in forest land, and any other generally accepted, reasonable, and prudent practice  
46 normally employed in the management of the timber resource for monetary profit. A silvicultural  
47 operation inherently includes lengthy periods between harvests and shall be deemed  
48 continuously operating so long as the property supports an actual or developing forest.

49 (E) An agricultural or silvicultural operation shall not lose its status by reason of a change  
50 of ownership or a cessation of operation of no more than [five] years, or [one] year after the  
51 expiration of a state or national program contract, either in whole or in part, nor shall it lose its  
52 status by reason of changes of crops or methods of production due to the introduction and use of  
53 new and generally accepted technologies which allow the operator to continue an existing  
54 agricultural or silvicultural corporation, unless the operation is substantially changed.

55 (F) The provisions of this section shall not affect the right of any person, firm, or  
56 corporation to recover damages for any injuries or damages sustained by them on account of  
57 pollution of the waters of any stream or ground water of the person, firm, or corporation.

58 (G) Any and all ordinances of any unit of local government now in effect or hereafter  
59 adopted that would make an agricultural or silvicultural operation or its appurtenances a nuisance  
60 per se, or providing for abatement thereof as a nuisance, a trespass, or a zoning violation in the  
61 circumstance set forth in this section shall be void. However, the provisions of this subsection  
62 shall not apply whenever a nuisance results from the negligent operation of any such agricultural  
63 operation or any of its appurtenances.

64 (H) Any administrative regulation promulgated by any agency that establishes standards  
65 for harvesting or producing agricultural crops in a sustainable manner shall be based on the  
66 principles outlined in this section and shall allow the use of best management practices  
67 developed under [insert citation].

68

69 Section 3. [*Severability.*] [Insert severability clause.]

70

71 Section 4. [*Repealer.*] [Insert repealer clause.]

72

73 Section 5. [*Effective Date.*] [Insert effective date.]