

ASSEMBLY, No. 5384

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 16, 2019

Sponsored by:

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Assemblyman JOHN ARMATO

District 2 (Atlantic)

Co-Sponsored by:

Assemblywoman Downey

SYNOPSIS

Allows commercial farms to hold 14 special occasion events per year.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/11/2019)

1 **AN ACT** concerning special occasion events held on preserved and
 2 unpreserved farmland, amending P.L.1983, c.31, supplementing
 3 Title 4 of the Revised Statutes, and repealing P.L.2014, c.16 and
 4 P.L.2018, c.30.

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

8
 9 1. Section 6 of P.L.1983, c.31 (C.4:1C-9) is amended to read as
 10 follows:

11 6. Notwithstanding the provisions of any municipal or county
 12 ordinance, resolution, or regulation to the contrary, the owner or
 13 operator of a commercial farm, located in an area in which, as of
 14 December 31, 1997 or thereafter, agriculture is a permitted use
 15 under the municipal zoning ordinance and is consistent with the
 16 municipal master plan, or which commercial farm is in operation as
 17 of the effective date of P.L.1998, c.48 (C.4:1C-10.1 et al.), and the
 18 operation of which conforms to agricultural management practices
 19 recommended by the committee and adopted pursuant to the
 20 provisions of the “Administrative Procedure Act,” P.L.1968, c.410
 21 (C.52:14B-1 et seq.), or whose specific operation or practice has
 22 been determined by the appropriate county board, or in a county
 23 where no county board exists, the committee, to constitute a
 24 generally accepted agricultural operation or practice, and all
 25 relevant federal or State statutes or rules and regulations adopted
 26 pursuant thereto, and which does not pose a direct threat to public
 27 health and safety may:

28 a. Produce agricultural and horticultural crops, trees and forest
 29 products, livestock, and poultry and other commodities as described
 30 in the Standard Industrial Classification for agriculture, forestry,
 31 fishing and trapping or, after the operative date of the regulations
 32 adopted pursuant to section 5 of P.L.2003, c.157 (C.4:1C-9.1),
 33 included under the corresponding classification under the North
 34 American Industry Classification System;

35 b. Process and package the agricultural output of the
 36 commercial farm;

37 c. Provide for the operation of a farm market, including the
 38 construction of building and parking areas in conformance with
 39 municipal standards;

40 d. Replenish soil nutrients and improve soil tilth;

41 e. Control pests, predators and diseases of plants and animals;

42 f. Clear woodlands using open burning and other techniques,
 43 install and maintain vegetative and terrain alterations and other
 44 physical facilities for water and soil conservation and surface water
 45 control in wetland areas;

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 g. Conduct on-site disposal of organic agricultural wastes;
- 2 h. Conduct agriculture-related educational and farm-based
- 3 recreational activities provided that the activities are related to
- 4 marketing the agricultural or horticultural output of the commercial
- 5 farm;
- 6 i. Engage in the generation of power or heat from biomass,
- 7 solar, or wind energy, provided that the energy generation is
- 8 consistent with the provisions of P.L.2009, c.213 (C.4:1C-32.4 et
- 9 al.), as applicable, and the rules and regulations adopted therefor
- 10 and pursuant to section 3 of P.L.2009, c.213 (C.4:1C-9.2); and
- 11 j. Engage in any other agricultural activity as determined by
- 12 the State Agriculture Development Committee and adopted by rule
- 13 or regulation pursuant to the provisions of the “Administrative
- 14 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

15 k. Hold special occasion events pursuant to sections 2 through 7
 16 of P.L. , c. (C.) (pending before the Legislature as this bill)
 17 (cf: P.L.2009, c.213, s.2)

18
 19 2. (New section) As used in sections 2 through 7 of P.L. , c.
 20 (C.) (pending before the Legislature as this bill):

21 “Commercial farm” means the same as that term is defined
 22 pursuant to section 3 of P.L.1983, c.31 (C.4:1C-3).

23 “Committee” means the State Agriculture Development
 24 Committee established pursuant to section 4 of P.L.1983, c.31
 25 (C.4:1C-4).

26 “County board” means a county agriculture development board
 27 established pursuant to section 7 of P.L.1983, c.32 (C.4:1C-14).

28 “Preserved farmland” means land on which a development
 29 easement was conveyed to, or retained by, the State Agriculture
 30 Development Committee, a county board, a county, a municipality,
 31 or a qualifying tax exempt nonprofit organization pursuant to the
 32 provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of
 33 P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-
 34 38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through
 35 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any
 36 other State law enacted for farmland preservation purposes.

37 “Special occasion event” means a wedding, lifetime milestone
 38 event, or other cultural or social event conducted pursuant to the
 39 requirements set forth in section 3 of P.L. , c. (C.) (pending
 40 before the Legislature as this bill).

41
 42 3. (New section) a. Notwithstanding any law, or rule or
 43 regulation adopted pursuant thereto to the contrary, a commercial
 44 farm may hold special occasion events, provided that: (1) an
 45 individual commercial farm holds no more than 14 special occasion
 46 events each calendar year; and (2) a special occasion event held
 47 pursuant to this section shall comply with all applicable municipal
 48 ordinances, resolutions, or regulations relating to noise control,

1 solid waste, parking, traffic, and the protection of public health and
2 safety.

3 b. (1) A commercial farm located on preserved farmland shall
4 ensure that the gross income generated by the commercial farm
5 from all special occasion events conducted for the calendar year
6 together account for less than 50 percent of the annual gross income
7 of the commercial farm.

8 (2) In determining the annual gross income of a commercial
9 farm pursuant to this section, the gross income received from any
10 special occasion event shall include, but need not be limited to,
11 admission fees; rental fees; setup, breakdown, and cleaning fees;
12 and all other revenue that is not directly related to the agricultural
13 or horticultural output of the commercial farm but is received by the
14 commercial farm in conjunction with conducting a special occasion
15 event. Sales of farm products produced at that commercial farm,
16 even if sold during the course of a special occasion event, shall not
17 be included in the gross income received from special occasion
18 events.

19
20 4. (New section) a. An owner or operator of a commercial
21 farm on preserved farmland engaged in conducting special occasion
22 events shall annually certify to the county board, or the committee
23 where there is no county board, that the special occasion events
24 together account for less than 50 percent of the annual gross income
25 of the commercial farm during the prior calendar year. The county
26 board shall forward the certification of annual gross income to the
27 committee. The financial certification required pursuant to this
28 subsection shall only include a statement of: (1) the gross income of
29 the commercial farm; and (2) the gross income from special
30 occasion events as determined pursuant to subsection b. of section 3
31 of P.L. , c. (C.) (pending before the Legislature as this bill).

32 b. (1) A county board or the committee may order, and specify
33 the scope of, an audit of the owner or operator of any commercial
34 farm on preserved farmland engaged in conducting special occasion
35 events for the purpose of determining compliance with section 3 of
36 P.L. , c. (C.) (pending before the Legislature as this bill).
37 The audit shall be conducted by an independent certified public
38 accountant approved by the county board or the committee, and the
39 costs thereof shall be paid by county board or committee that
40 ordered the audit. A county board, or the committee, may establish
41 a list of independent certified public accountants approved for the
42 purposes of conducting an audit pursuant to this paragraph. Copies
43 of the audit shall be submitted to the county board, the committee,
44 and the owner or operator of the commercial farm.

45 (2) An owner or operator of a commercial farm on preserved
46 farmland engaged in conducting special occasion events shall not be
47 subject to an audit authorized pursuant to this section more than

1 once per year without good cause demonstrated by the applicable
2 county board or the committee.

3 c. In conjunction with an audit ordered pursuant to subsection
4 b. of this section, a county board or the committee may request, and
5 the owner or operator of the commercial farm shall provide,
6 additional documentation as may be necessary for the county board
7 or committee to verify compliance with section 3 of P.L. , c.
8 (C.) (pending before the Legislature as this bill).

9
10 5. (New section) a. An owner or operator of a commercial
11 farm who violates P.L. , c. (C.) (pending before the
12 Legislature as this bill) shall be liable to a civil penalty of up to
13 \$1,000 for the first offense, up to \$2,000 for the second offense, or
14 up to \$3,000 for a subsequent offense, to be collected in a civil
15 action commenced by the committee.

16 b. In addition to the penalties established pursuant to
17 subsection a. of this section:

18 (1) for a second offense, the committee shall, after a hearing,
19 suspend the owner or operator of a commercial farm from
20 conducting special occasion events for a period of up to six months;

21 (2) for a third offense, the committee shall, after a hearing,
22 suspend the owner or operator of a commercial farm from
23 conducting special occasion events for a period of at least six
24 months but not more than one year; and

25 (3) for a fourth or subsequent offense, the committee shall, after
26 a hearing, suspend the owner or operator of a commercial farm from
27 conducting special occasion events for a period of at least one year
28 but not more than two years.

29 c. Any penalty imposed pursuant to this section may be
30 collected, with costs, in a summary proceeding pursuant to the
31 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
32 et seq.). The Superior Court and the municipal court shall have
33 jurisdiction to enforce the provisions of the "Penalty Enforcement
34 Law of 1999" in connection with P.L. , c. (C.) (pending
35 before the Legislature as this bill).

36
37 6. (New section) The committee, in consultation with each
38 county board, shall biennially prepare and submit to the Governor
39 and to the Legislature, pursuant to section 2 of P.L.1991, c.164
40 (C.52:14-19.1), a report summarizing the activities of commercial
41 farms holding special occasion events pursuant to P.L. , c.
42 (C.) (pending before the Legislature as this bill), and making
43 recommendations for any necessary statutory or regulatory changes,
44 if necessary, to the Governor and Legislature, concerning P.L. , c.
45 (C.) (pending before the Legislature as this bill) or any rules or
46 regulations adopted pursuant thereto.

1 regulations pertaining to noise control, solid waste, parking, traffic,
2 and the protection of public health and safety. Commercial farms
3 on preserved farmland would be required to ensure that the annual
4 income from all special occasion events account for less than 50
5 percent of the income of the commercial farm.

6 The bill would provide for annual reporting requirements for
7 commercial farms on preserved farmland engaged in conducting
8 special occasion events to ensure compliance with the income
9 requirement, and would allow the State Agriculture Development
10 Committee (SADC) or the applicable county agriculture
11 development board (county board) to conduct an income audit, at
12 the expense of the county board or the SADC, no more than once
13 annually to confirm compliance. Violators may be subject to a civil
14 penalty of up to \$1,000 for the first offense, up to \$2,000 for the
15 second offense, or up to \$3,000 for a subsequent offense.
16 Additionally, a second offense would result in a suspension from
17 conducting special occasion events for a period of up to six months;
18 a third offense would result in a suspension from conducting special
19 occasion events for a period of at least six months but not more than
20 one year, and a fourth or subsequent offense, would result in the
21 suspension from conducting special occasion events for a period of
22 at least one year but not more than two years.

23 The bill would also amend the “Right to Farm Act” to give
24 special occasion events conducted pursuant to the bill right to farm
25 protections, and would permit the SADC to adopt agricultural
26 management practices consistent with the bill.

27 The bill would also require the SADC to prepare a biennial
28 report to the Legislature and Governor summarizing the status of
29 special occasion events held on commercial farmland in the State
30 and offering any recommendations for statutory or regulatory
31 changes.

32 The bill would also repeal the sections of law providing for the
33 special occasion events pilot program at wineries on preserved
34 farmland. Lastly, the bill provides rulemaking authority to the
35 SADC, including interim rulemaking authority to allow special
36 events to occur before the SADC adopts permanent regulations, and
37 provides that the SADC’s regulations implementing the special
38 occasion events pilot program would remain in effect until the
39 SADC adopts the regulations required by this bill.