

# Senate Bill 499

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## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates exceptions to limitation on liability for certain farming and forest practices for actions for serious harm to human health and loss of use of residential property or domestic drinking water.

Exempts actions alleging nuisance or trespass arising from use of pesticide from provisions requiring award of attorney fees to prevailing party.

## A BILL FOR AN ACT

1  
2 Relating to actions based on farming or forest practices; creating new provisions; and amending ORS  
3 30.936, 30.937 and 30.938.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 30.936 is amended to read:

6 30.936. (1) No farming or forest practice on lands zoned for farm or forest use [*shall give*] **gives**  
7 rise to any private right of action or claim for relief based on nuisance or trespass.

8 (2) Subsection (1) of this section [*shall*] **does** not apply to a right of action or claim for relief for:

9 (a) Damage to commercial agricultural products; [*or*]

10 (b) Death, **serious harm to human health** or serious physical injury as defined in ORS  
11 161.015; **or**

12 (c) **Loss of use of residential property or domestic drinking water.**

13 (3) Subsection (1) of this section applies regardless of whether the farming or forest practice has  
14 undergone any change or interruption.

15 **SECTION 2.** ORS 30.937 is amended to read:

16 30.937. (1) No farming or forest practice allowed as a preexisting nonconforming use [*shall*  
17 *give*] **gives** rise to any private right of action or claim for relief based on nuisance or trespass.

18 (2) Subsection (1) of this section [*shall*] **does** not apply to a right of action or claim for relief for:

19 (a) Damage to commercial agricultural products; [*or*]

20 (b) Death, **serious harm to human health** or serious physical injury as defined in ORS  
21 161.015; **or**

22 (c) **Loss of use of residential property or domestic drinking water.**

23 (3) Subsection (1) of this section applies only where a farming or forest practice existed before  
24 the conflicting nonfarm or nonforest use of real property that gave rise to the right of action or  
25 claim for relief.

26 (4) Subsection (1) of this section applies only where a farming or forest practice has not signif-  
27 icantly increased in size or intensity from November 4, 1993, or the date on which the applicable  
28 urban growth boundary is changed to include the subject farming or forest practice within its limits,  
29 whichever is later.

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1        **SECTION 3.** ORS 30.938 is amended to read:

2        30.938. In any action or claim for relief alleging nuisance or trespass and arising from a  
3 practice, **other than the use of a pesticide**, that is alleged by either party to be a farming or forest  
4 practice, the prevailing party [*shall be*] is entitled to judgment for reasonable attorney fees and costs  
5 incurred at trial and on appeal.

6        **SECTION 4.** The amendments to ORS 30.936, 30.937 and 30.938 by sections 1 to 3 of this  
7 2017 Act apply only to causes of action or claims for relief arising on or after the effective  
8 date of this 2017 Act.

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