

# Right to Farm 101 for Aquaculture Stakeholders in Mississippi

*This fact sheet was prepared by the National Sea Grant Law Center as part of the Agricultural and Food Law Consortium.*



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Commercial aquaculture operations, like traditional agricultural operations, sometimes face legal challenges from neighbors raising concerns about farm operations. Nuisance lawsuits filed against agricultural operations often involve allegations by neighboring property owners that the odor, dust, or noise associated with farming is interfering with their ability to enjoy and use their property. In general, “right-to-farm” legislation protects agricultural operations from such nuisance claims when certain conditions are satisfied. This document examines Mississippi’s right-to-farm legislation and how it applies to commercial aquaculture. For a more comprehensive explanation of right-to-farm laws and their significance, please refer to the National Sea Grant Law Center’s document entitled “Aquaculture and the Right to Farm,” which can be found at <http://nsglc.olemiss.edu/projects/ag-food-law>.

State right-to-farm laws usually contain the following key elements:

- **Time in Operation Requirements** designating how long agricultural operations must be in existence before any statutory nuisance defense becomes available;
- **Preemption Clauses** ensure that municipal laws do not diminish nuisance protections for farmers;
- **Legal Presumptions or Complete Defenses** for farmers operating in conformance with applicable laws;
- **Exceptions** for recovery of damages due to injury; for public health, safety, and/or welfare; and/or for improper or negligent operation of farms; and
- **Best Management Practices (BMPs)** that farmers must adhere to for nuisance protections to apply.

The second page of this fact sheet provides a snapshot summary of Mississippi’s right-to-farm legislation with respect to these key elements. While the following information encompasses the state’s statute as it exists in 2018, it is important for aquaculture stakeholders to remember that, because the industry is developing, states may alter or add to their right-to-farm legislation in the future. The outcome of related court cases could also alter applicable provisions of a state’s right-to-farm law. Aquaculture stakeholders should consult an attorney or another outside source before taking any action based on the following information. Interested parties might first contact the Mississippi-Alabama Sea Grant Consortium or one of the land-grant Extension programs at either Alcorn State University or Mississippi State University.

## For more information about these programs:

Mississippi-Alabama Sea Grant Consortium: <http://masgc.org>

Alcorn State University Extension Program: <http://bit.ly/asuextension>

Mississippi State University: <http://extension.msstate.edu>



Wheat field in Mississippi, courtesy of Visit Mississippi.

## Summary of Mississippi's Right-to-Farm Legislation

- Mississippi's right-to-farm legislation was enacted in 1980 and can be found in the Mississippi Code at Section 95-3-29.
- Mississippi's definition of an "agricultural operation" includes any facility or production site used for the production and processing of farm-raised fish and fish products.
- Agricultural operations in Mississippi are not nuisances as long as they have been in operation for one year or more.
- Mississippi's legislation carries a time in operation requirement of one year or more.
- Mississippi's legislation contains no provisions related to preemption.
- In any nuisance action against an agricultural operation, proof that the operation has existed for one year or more is a complete defense to the nuisance action if the operation is in compliance with all applicable state and federal permits.
- Mississippi's legislation contains one exception. Nuisance protections do not affect the applicability of any provision of the Mississippi Air and Water Pollution Control Law.
- Mississippi does not require farms to abide by any management practices requirements.
- Mississippi has not yet produced a BMP manual related to aquaculture.