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The Dickinson
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The Agricultural Law Resource & Reference Center Legal Update

Summarizing Local, State, National, and International Legal
Developments Impacting Food & Agricultural Law in Pennsylvania

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CONGRESS PASSES 2008 FARM BILL OVER VETO; TRADE TITLE DELAYED BY TECHNICAL ERROR

After months of debate and negotiation, Congress passed The Food, Conservation, and Energy Act of 2008 over President Bush's veto on May 22, 2008. Although the Bush Administration stated that the legislation was too expensive and did not satisfactorily reform commodity program payments, this legislation was supported by a broad range of farm and non-farm organizations. This support was evidenced by the wide margins (316 to 108 in the House of Representatives and 82 to 13 in the Senate) by which Congress voted to override the Presidential veto.

This \$290 billion legislation contains 15 separate titles addressing the specific topics of Commodity Programs, Conservation, Trade, Nutrition, Credit, Rural Development, Research, Forestry, Energy, Horticulture and Organic Agriculture, Livestock, Crop Insurance and Disaster Assistance, Commodity Futures, Miscellaneous, and Trade and Tax Provisions. Due to a technical error, the text of Title III, addressing trade and international food aid, was not presented to President Bush with the remainder of the bill. Thus, this title has not become law and will be addressed separately by Congress following the Memorial Day recess.



For details about specific provisions in the Farm Bill, please see <http://agriculture.house.gov/inside/FarmBill.html>

PA SUPREME COURT TO DETERMINE EXTENT TO WHICH LOCALITIES MAY REGULATE NATURAL GAS DRILLING

On May 27, 2008, the Pennsylvania Supreme Court granted Petitions for Allowance of Appeal filed by Salem Township and the Borough of Oakmont. These municipalities seek to overturn rulings of the Commonwealth Court relating to their ability to regulate natural gas drilling operations. Last year, the Commonwealth Court struck down an ordinance promulgated by the Borough of Oakmont, ruling that the Pennsylvania Oil and Gas Act preempts local regulation with regard to the determination of well site locations. *Huntley & Huntley v. Borough of Oakmont*, 929 A.2d 1252 (Pa. Commw. Ct. 2007). Likewise, the Commonwealth Court invalidated a Salem Township ordinance on the basis of preemption in *Great Lakes Energy Partners v. Salem Township*, 931 A.2d 101 (Pa. Commw. Ct. 2007). The Supreme Court will now proceed towards deciding the merits of the issues raised by these municipalities.

In a related matter, Arbor Resources, a Michigan natural gas exploration company, filed a lawsuit against Nockamixon Township in the Bucks County Court of Common Pleas on May 15, 2008, seeking to invalidate two township ordinances that impose restrictions on drilling activities within the township. The company has received permits from the Pennsylvania D.E.P. to drill two gas wells, but township ordinances prohibit drilling at the selected sites.

For further information on this topic, please visit the Natural Gas Exploration Resource Area that will be coming soon to the Center website.

Legislation Introduced to Amend Pennsylvania's Dog Law & Animal Cruelty Law

Three bills to amend Pennsylvania's Dog Law and Animal Cruelty Law recently have been introduced into the House of Representatives. House Bill 2525, introduced on May 13, 2008, would amend the Dog Law by establishing minimum standards for a new classification of kennels, commercial breeding kennels, and by providing for enforcement mechanisms against unlicensed kennels. House Bill 2532, also introduced on May 13, 2008, would amend the Animal Cruelty Law by restricting non-veterinarians from performing certain surgical procedures such as debarking and tail docking. This bill also would provide dog law wardens with enforcement authority over specified animal cruelty violations. Earlier this year, House Bill 499 was introduced to increase the penalties for violations of the Animal Cruelty Law. House Bill 2525 has been referred to the House Agriculture and Rural Affairs Committee for further consideration while House Bills 2532 and 499 have been referred to the House Judiciary Committee. For information on the specific provisions contained in this legislation, please visit the Pennsylvania Department of Agriculture's website at www.DogLawAction.com.

Dairy Farmers Found Guilty of Selling Raw Milk Without Permit

Two Pennsylvania dairy farmers recently have been found guilty of selling raw milk without a permit. On May 5, Mark Nolt of Cumberland County was found guilty of four counts of selling raw milk without a permit in violation of the Milk Sanitation Law, 31 P.S. § 646, and was ordered to pay \$4,311.15 in fines and costs. On May 6, Glenn Wise of Lancaster County was found guilty of one count of selling raw milk without a permit and was ordered to pay \$172 in fines and costs. Each of these individuals has thirty days after the date of his summary offense conviction(s) to appeal to the county Court of Common Pleas. Pennsylvania law allows the sale of raw milk and raw hard cheese if a farmer obtains a free permit and passes a public health inspection. At the present time, the sale of raw butter, yogurt or soft cheese is not permitted under Pennsylvania law.

Pennsylvania Game Commission Removes Feral Swine from Protected Status

On May 7, 2008, Pennsylvania Game Commission Executive Director, Carl G. Roe, issued an Executive Order removing feral swine from protected status in 64 of 67 Pennsylvania counties. The Executive Order was based upon the threat posed by this invasive species to natural resources, agriculture, and human safety. In the 64 affected counties, licensed hunters now may kill unlimited numbers of feral swine in an effort to eradicate this invasive species. In Bedford, Butler, and Cambria counties, feral swine remain protected to facilitate ongoing federal and state trapping programs. The Game Commission took this action in response to the Pennsylvania Supreme Court opinion in *Seeton v. Pennsylvania Game Commission*, 937 A.2d 1028 (Pa. 2007), in which the court ruled that feral swine were protected mammals and could be hunted only pursuant to specific statutory or regulatory authority. For further information on this topic, please visit the Invasive Species Resource Area that will be coming soon to the Center website.

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ABOUT THE AGRICULTURAL LAW RESOURCE & REFERENCE CENTER

The Agricultural Law Resource and Reference Center is a collaboration between The Pennsylvania State University's Dickinson School of Law and College of Agricultural Sciences. Funded in part by the Pennsylvania Department of Agriculture, the Center is designed to provide the highest quality educational programs, information, and materials to those involved or interested in agricultural law and policy.

The Center does not provide legal advice, nor is its work intended to be a substitute for such advice and counsel.

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