

Agriculture Law in a Nutshell

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Abstract: Agriculture law is the study of the law's effects upon the ability of the agricultural sector to produce and market food and fiber. It refers to the acts of farming and raising livestock. It includes soil preparation, seed planting, crop harvesting, gardening, viticulture, apiculture, dairying, poultry, and ranching. It is one of the most comprehensively digitized sectors. The digitization of agriculture has led to a growing productivity. Like any business entity, farms in the US are governed and regulated by federal, state, and local governments. This paper explores agricultural law and its various applications.

Keywords: agriculture law, agricultural law, agricultural regulations, farming law, farm bill.

INTRODUCTION

The digital transformation of the economy and society is changing agriculture industry as well as other sectors. The digitization of agriculture has led to a growing productivity and is profoundly reshaping the agricultural and food sector. The entire range of different digital technologies used in the agricultural sector include computers, Internet, satellite, data mining, big data, cloud computing, artificial intelligence, robotics, sensor technologies, drones, augmented reality (AR) and virtual reality (VR), blockchain, smartphones, tablets, tracking systems, chatbots, etc. Due to these technologies, agriculture has been able to achieve considerable increases in yields in recent decades. The high productivity is indicated by the fact that one farmer fed around 4 people in 1900, around 10 in 1949 and around 155 today, with less land and a growing world population [1]. Figure 1 shows the use mechanized farming [2], while Figure 2 displays the use digital technology in agriculture [3].

Generally, if an agricultural product is sold across state lines, it may be regulated by the federal government. The federal government often has primary regulatory authority over agriculture. This implies that if there is a law impacting agriculture at federal level, a state law cannot conflict with it. Numerous federal agencies regulate agriculture, including the Environmental Protection Agency (EPA), the US Department of Agriculture (USDA), the US Department of Labor, and the Food and Drug Administration (FDA). The EPA (Environmental Protection Agency) regulates the development, testing, manufacture, sale, and use of all pesticides through

its authority under the Federal Insecticide, Fungicide and Rodenticide Act. The FDA and the USDA are the primary federal authorities responsible for ensuring that foods sold in the US are properly labelled. The agencies also govern food safety laws in the US. Some states have also passed their own statutes relating to agriculture production [4].

AGRICULTURE LAW

Although legal problems involving agriculture producers, rural landowners and ag-related businesses have existed for centuries, agricultural law has been developed as an area for study largely in the twentieth century. American law schools and legal scholars first recognized agricultural law as a discipline in the 1940s when law schools at Yale, Harvard, Texas, and Iowa explored and initiated agricultural law courses. Until the 1920s, the first 150 years of agricultural policy in the US was dominated by policies directed at developing and supporting family farms and the inputs of the total agricultural sector.

Agricultural law (also known as Ag law) deals with legal issues such as agricultural infrastructure, seed, water, fertilizer, pesticide use, agricultural finance, agricultural labor, agricultural marketing, agricultural insurance, farming rights, land tenure, tenancy system, etc. It also includes acquiring agricultural companies and co-operatives, competition law, land ownership and usage rights, pricing and tender processes, tax and financing, crop seed business, importing crop seeds, commercial crop production and distribution, plant variety right protection, GM crops, GM foods, importing animals, gene patents, and product liability.

In the US, farms are typically structured as sole proprietorships, partnerships, or limited liability companies (LLC). They can be for-profit or non-profit businesses. Agricultural law applies to acquiring agricultural companies, competition law, land ownership and usage rights, pricing and tender processes, tax and financing, crop seed business, importing crop seeds, commercial crop production and distribution, plant variety right protection, importing animals, gene patents, and product liability [5].

AGRICULTURE LAWYERS

Agriculture lawyers focus on agriculture law. They engage in one of the most diverse areas of law, addressing crop and livestock production issues, food safety concerns, land use, resource management challenges, and sustainability and environmental protection. The practice of agriculture law also focuses on traditional areas like property law, water law, and oil and gas, administrative law, intellectual property, food law, clean energy law, and environmental law [6].

An attorney practicing agriculture works with farmers, environmental groups, and regulatory agencies. They aid the private sector and governmental agencies in matters of data ownership and privacy issues related to customers, employees, and drones. They also engage with regulatory agencies to ensure compliance with existing agriculture or food safety standards, or work to develop new ones [6]. Figure 3 shows some agricultural lawyers [7].

APPLICATIONS

Applications areas of agriculture law include animal law, environmental law, fungicide, finance and credit, food safety, land use regulation, nutrition programs, pesticides, right to farm, and underserved communities.

Some of the applications are discussed as follows [6,8,9]:

- *Environmental Issues:* Environmental issues may form part of government support for agriculture in your jurisdiction. Environmental regulation of agriculture in the US is mostly through federal and state law but county and municipality requirements may also apply. The Environmental Protection Agency (EPA) is the federal agency that drafts environmental regulations and assists with enforcing them.

- *Foreign Investment:* Currently, there are no restrictions under federal law on foreign investment and ownership in the US agriculture sector. There is currently no bar at federal level to a foreign investor acquiring a US agricultural business. However, the Agricultural Foreign Investment Disclosure Act of 1978 (AFIDA) requires all foreign persons and entities who acquire agricultural land to provide information to the USDA Farm Service Agency. A "foreign person" refers to any individual, corporation, company, association, partnership, society, joint stock company, trust, estate, or any other legal entity created under the laws of a foreign government.
- *Land Ownership:* The issue of restricting foreign investments and ownership of agricultural land emerged in a few states. No federal law prohibits ownership of agricultural land by non-citizens or corporations. Most states allow non-citizens to own land unless their government is in conflict with the US. Ownership of land can take place through joint tenancy, tenancy in common, tenancy by the entirety, and transferred via an estate plan or gift, or a sale of the land. State law often governs leases on agricultural land and may cover termination, subleases, rights to harvest after lease expiration, etc.
- *Tax:* There may be several tax implications to consider, including federal and state capital gains tax, estate tax, and inheritance tax. If the farmland is transferred through an estate plan to an heir, federal estate taxes may apply. Although farmers can take out loans to purchase equipment and livestock, state law governs the lender's security interest in the collateral that secures the loan. The federal government and private lenders may finance the purchase of agricultural land via a mortgage.
- *Patents:* A person who has invented or discovered a new and distinct plant variety can apply to the US Patent and Trademark Office (USPTO) for a plant patent. A patent grants the person the protection against third party reproduction, sale, or use of the patented gene, sequence, trait, process, or method. A specific aspect of a plant can be protected through a utility patent. A plant or utility patent provides exclusive protection for 20 years from the date of the first application for the patent.
- *Animal Welfare:* The Animal Welfare Act ensures the humane treatment of certain non-agricultural animals that are bred for commercial sale. Authority to control the import and export of animals is primarily vested in the USDA (US Department of Agriculture). Importing live animals into the US typically requires an import permit, specifies the conditions and requirements for importation. The imported animals must be accompanied by a health certificate and they may be subject to quarantine on arrival in the US. The US has few requirements for exporting animals to other nations. The regulatory regime for animal welfare involves a combination of federal and state laws in the US. The USDA's APHIS is responsible for enforcing federal animal welfare laws. Each state has its own animal cruelty laws that vary in scope and detail.
- *Competition:* Competition in the meat industry has been another topic of interest recently. President Biden signed an Executive Order addressing competition within the meat-processing industry. USDA is drafting some rules, outlining fair competitive practices within the integrated livestock industries. The Department of Justice has active antitrust investigations into multiple companies as well as a criminal trial of four poultry executives.
- *Right to Farm:* All fifty states have a right to farm statute. These statutes are meant to provide a defense against nuisance lawsuits brought by neighbors. The amount of legal protection provided by the statutes varies significantly between the states. States typically model changes to right to farm statutes on other states so this amendment could have broader implications in coming years.

BENEFITS

Over twenty percent of the jobs and economic activity in the United States are associated with the production, processing, distribution, and consumption of food and fiber produced by the agricultural sector. There are factors which contribute to making agricultural law a unique area of study. The following six factors have been identified as contributing to the unique nature of agricultural law as a study of social, economic, and political impacts: (1) The ownership and control of land; (2) the dominance of the biological cycle in the production of agricultural commodities; (3) the overwhelming importance of government regulation in determining the environment in which the sector functions; (4) the extraordinary economic competitiveness within agriculture; (5) the tremendous cultural, practical, social, and political importance given to the "family farm;" and, (6) the meaning and significance of the structural [10].

CONCLUSION

Agricultural law is the study of the specific laws and regulations that apply to the production and sale of agricultural products. It covers a wide array of topics and issues that illustrate the many areas where agriculture intersects the law. In recent years, agricultural law studies have expanded to incorporate a wider consideration of the impact of agricultural production, including issues of environmental law, sustainability, animal welfare, and food law and policy [11]. More information about agriculture law can be found in the books in [12-32].

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Figure 1 Mechanized farming [2].



Figure 2 The use of digital technology in agriculture [3].



Figure 3 Agricultural lawyers [7].