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DIVISION 4. GENERAL PROVISIONS [3274 - 9566] (*Heading of Division 4 amended by Stats. 1988, Ch. 160, Sec. 16.*)

PART 3. NUISANCE [3479 - 3508.2] (*Part 3 enacted 1872.*)

TITLE 1. GENERAL PRINCIPLES [3479 - 3486] (*Title 1 enacted 1872.*)

[3479.](#) Anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance.

(*Amended by Stats. 1996, Ch. 658, Sec. 1. Effective January 1, 1997.*)

[\[3480.\]](#) Section Thirty-four Hundred and Eighty. A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

(*Amended by Code Amendments 1873-74, Ch. 612.*)

[3481.](#) Every nuisance not included in the definition of the last section is private.

(*Enacted 1872.*)

[3482.](#) Nothing which is done or maintained under the express authority of a statute can be deemed a nuisance.

(*Enacted 1872.*)

[3482.1.](#) (a) As used in this section:

(1) "Person" means an individual, proprietorship, partnership, corporation, club, or other legal entity.

(2) "Sport shooting range" or "range" means an area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport or law enforcement training purpose.

(3) "Indoor shooting range" means a totally enclosed facility designed to offer a totally controlled shooting environment that includes impenetrable walls, floor and ceiling, adequate ventilation and lighting systems, and acoustical treatment for sound attenuation suitable for the range's approved use.

(4) "Nighttime" means between the hours of 10 p.m. and 7 a.m.

(b) (1) Except as provided in subdivision (f), a person who operates or uses a sport shooting range in this state shall not be subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution resulting from the operation or use of the range if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time construction or operation of the range was approved by a local public entity having jurisdiction in the matter, or if there were no such laws or ordinances that applied to the range and its operation at that time.

(2) Except as provided in subdivision (f), a person who operates or uses a sport shooting range or law enforcement training range is not subject to an action for nuisance, and a court shall not enjoin the use or operation of a range, on the basis of noise or noise pollution if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time construction or operation of the range was approved by a local public entity having jurisdiction in the matter, or if there were no such laws or ordinances that applied to the range and its operation at that time.

(3) Rules or regulations adopted by any state department or agency for limiting levels of noise in terms of decibel level which may occur in the outdoor atmosphere shall not apply to a sport shooting range exempted from liability under this section.

(c) A person who acquires title to or who owns real property adversely affected by the use of property with a permanently located and improved sport shooting range may not maintain a nuisance action with respect to noise or noise pollution against the person who owns the range to restrain, enjoin, or impede the use of the range where there has been no substantial change in the nature or use of the range. This section does not prohibit actions for negligence or recklessness in the operation of the range or by a person using the range.

(d) A sport shooting range that is in operation and not in violation of existing law at the time of the enactment of an ordinance described in subdivision (b) shall be permitted to continue in operation even if the operation of the sport shooting range at a later date does not conform to a new ordinance or an amendment to an existing ordinance if there has been no substantial change in the nature or use of the range. Nothing in this section shall be construed to limit the authority of a local agency to enforce any term of a conditional use permit.

(e) Except as otherwise provided in this section, this section does not prohibit a local public entity having jurisdiction in the matter from regulating the location and construction of a sport shooting range after the effective date of this section.

(f) This section does not prohibit a local public entity having jurisdiction in the matter from requiring that noise levels at the nearest residential property line to a range not exceed the level of normal city street noise which shall not be more than 60 decibels for nighttime shooting. The subdivision does not abrogate any existing local standards for nighttime shooting. The operator of a sport shooting range shall not unreasonably refuse to use trees, shrubs, or barriers, when appropriate, to mitigate the noise generated by nighttime shooting. For the purpose of this section, a reasonable effort to mitigate is an action that can be accomplished in a manner and at a cost that does not impose an unreasonable financial burden upon the operator of the range.

(g) This section does not apply to indoor shooting ranges.

(h) This section does not apply to a range in existence prior to January 1, 1998, that is operated for law enforcement training purposes by a county of the sixth class if the range is located without the boundaries of that county and within the boundaries of another county. This subdivision shall become operative on July 1, 1999.

(Amended by Stats. 1998, Ch. 141, Sec. 1. Effective July 13, 1998.)

3482.5. (a) (1) No agricultural activity, operation, or facility, or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after it has been in operation for more than three years if it was not a nuisance at the time it began.

(2) No activity of a district agricultural association that is operated in compliance with Division 3 (commencing with Section 3001) of the Food and Agricultural Code, shall be or become a private or public nuisance due to any changed condition in or about the locality, after it has been in operation for more than three years if it was not a nuisance at the time it began. This paragraph shall not apply to any activities of the 52nd District Agricultural Association that are conducted on the grounds of the California Exposition and State Fair, nor to any public nuisance action brought by a city, county, or city and county alleging that the activities, operations, or conditions of a district agricultural association have substantially changed after more than three years from the time that the activities, operations, or conditions began.

(b) Paragraph (1) of subdivision (a) shall not apply if the agricultural activity, operation, or facility, or appurtenances thereof obstruct the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin, or any public park, square, street, or highway.

(c) Paragraph (1) of subdivision (a) shall not invalidate any provision contained in the Health and Safety Code, Fish and Game Code, Food and Agricultural Code, or Division 7 (commencing with Section 13000) of the Water Code, if the agricultural activity, operation, or facility, or appurtenances thereof constitute a nuisance, public or private, as specifically defined or described in any of those provisions.

(d) This section shall prevail over any contrary provision of any ordinance or regulation of any city, county, city and county, or other political subdivision of the state. However, nothing in this section shall preclude a city, county, city and county, or other political subdivision of this state, acting within its constitutional or statutory authority and not in conflict with other provisions of state law, from adopting an ordinance that allows notification to a prospective homeowner that the dwelling is in close proximity to an agricultural activity, operation, facility, or appurtenances thereof and is subject to the provisions of this section consistent with Section 1102.6a.

(e) For purposes of this section, the term "agricultural activity, operation, or facility, or appurtenances thereof" shall include, but not be limited to, the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural commodity including timber, viticulture, apiculture, or horticulture, the raising of livestock, fur bearing animals, fish, or poultry, and any practices performed by a farmer or on a farm as incident to or in conjunction with those farming operations, including preparation for market, delivery to storage or to market, or delivery to carriers for transportation to market.

(Amended by Stats. 1992, Ch. 97, Sec. 1. Effective January 1, 1993.)

3482.6. (a) No agricultural processing activity, operation, facility, or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after it has been in continuous operation for more than three years if it was not a nuisance at the time it began.

(b) If an agricultural processing activity, operation, facility, or appurtenances thereof substantially increases its activities or operations after January 1, 1993, then a public or private nuisance action may be brought with respect to those increases in activities or operations that have a significant effect on the environment. For increases in activities or operations that have been in effect more than three years, there is a rebuttable presumption affecting the burden of producing evidence that the increase was not substantial.

(c) This section does not supersede any other provision of law, except other provisions of this part, if the agricultural processing activity, operation, facility, or appurtenances thereof, constitute a nuisance, public or private, as specifically defined or described in the provision.

(d) This section prevails over any contrary provision of any ordinance or regulation of any city, county, city and county, or other political subdivision of the state, except regulations adopted pursuant to Section 41700 of the Health and Safety Code as applied to agricultural processing activities, operations, facilities, or appurtenances thereof that are surrounded by housing or commercial development on January 1, 1993. However, nothing in this section precludes a city, county, city and county, or other political subdivision of this state, acting within its constitutional or statutory authority and not in conflict with other provisions of state law, from adopting an ordinance that allows notification to a prospective homeowner that the dwelling is in close proximity to an agricultural processing activity, operation, facility, or appurtenances thereof and is subject to provisions of this section consistent with Section 1102.6a.

(e) For the purposes of this section, the following definitions apply:

(1) "Agricultural processing activity, operation, facility, or appurtenances thereof" includes, but is not limited to rendering plants licensed pursuant to Section 19300 of the Food and Agricultural Code and collection centers licensed pursuant to Section 19300.5 of the Food and Agricultural Code, the canning or freezing of agricultural products, the processing of dairy products, the production and bottling of beer and wine, the processing of meat and egg products, the drying of fruits and grains, the packing and cooling of fruits and vegetables, and the storage or warehousing of any agricultural products, and includes processing for wholesale or retail markets of agricultural products.

(2) "Continuous operation" means at least 30 days of agricultural processing operations per year.

(3) "Proper and accepted customs and standards" means the compliance with all applicable state and federal statutes and regulations governing the operation of the agricultural processing activity, operation, facility, or appurtenances thereof with respect to the condition or effect alleged to be a nuisance.

(f) This section does not apply to any litigation pending or cause of action accruing prior to January 1, 1993.

(Amended by Stats. 1999, Ch. 329, Sec. 1. Effective January 1, 2000.)

3482.8. Any building or property used for the purpose of willfully conducting dogfighting in violation of Section 597.5 of the Penal Code or cockfighting in violation of subdivision (b) of Section 597b of the Penal Code is a public nuisance.

(Added by Stats. 2011, Ch. 128, Sec. 1. (SB 426) Effective January 1, 2012.)

3483. Every successive owner of property who neglects to abate a continuing nuisance upon, or in the use of, such property, created by a former owner, is liable therefor in the same manner as the one who first created it.

(Enacted 1872.)

3484. The abatement of a nuisance does not prejudice the right of any person to recover damages for its past existence.

(Enacted 1872.)

3486. (a) To abate the nuisance caused by illegal conduct involving a controlled substance purpose on real property, the city prosecutor or city attorney may file, in the name of the people, an action for unlawful detainer against any person who is in violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure, with respect to that controlled substance purpose. In filing this action, which shall be based upon an arrest report by a law enforcement agency, reporting an offense committed on the property and documented by the observations of a police officer, the city prosecutor or city attorney shall use the procedures set forth in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure, except that in cases filed under this section, the following also shall apply:

(1) (A) Prior to filing an action pursuant to this section, the city prosecutor or city attorney shall give 30 calendar days' written notice to the owner, requiring the owner to file an action for the removal of the person who is in violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure with respect to a controlled substance purpose.

(B) This notice shall include sufficient documentation establishing a violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure and an advisement to the owner of the assignment provision contained in subparagraph (D). The notice shall be served upon the owner and the tenant in accordance with subdivision (e).

(C) The notice to the tenant shall, in at least 14-point bold type, meet the following requirements:

(i) The notice shall contain the following language:

“(Date)

(Name of tenant)

(Address of tenant)

Re: Civil Code Section 3486

Dear (name of tenant):

This letter is to inform you that an eviction action may soon be filed in court against you for suspected drug activity. According to state law, Civil Code Section 3486 provides for eviction of persons engaging in such conduct, as described below.

(Name of police department) records indicate that you, (name of arrestee), were arrested on (date) for violations of (list violations) on (address of property).

A letter has been sent to the property owner(s) advising of your arrest and the requirements of state law, as well as the landlord's option to assign the unlawful detainer action to the (name of city attorney or prosecutor's office).

A list of legal assistance providers is provided below. Please note, this list is not exclusive and is provided for your information only; the (name of city attorney or prosecutor's office) does not endorse or recommend any of the listed agencies.

Sincerely,

(Name of deputy city attorney or city prosecutor)

Deputy City (Attorney or Prosecutor)

Notice to Tenant: This notice is not a notice of eviction. You should call (name of the city attorney or prosecutor pursuing the action) at (telephone number) or a legal assistance provider to stop the eviction action if any of the following is applicable:

- (1) You are not the person named in this notice.
- (2) The person named in the notice does not live with you.
- (3) The person named in the notice has permanently moved.
- (4) You do not know the person named in the notice.
- (5) You want to request that only the person involved in the nuisance be evicted, allowing the other residents to stay.
- (6) You have any other legal defense or legal reason to stop the eviction action.

A list of legal assistance providers is attached to this notice. Some provide free legal assistance if you are eligible.”

(ii) The notice shall be provided to the tenant in English and, as translated, in all of the languages identified in subdivision (a) of Section 1632 of the Civil Code.

(D) The owner shall, within 30 calendar days of the mailing of the written notice, either provide the city prosecutor or city attorney with all relevant information pertaining to the unlawful detainer case, or provide a written explanation setting forth any safety-related reasons for noncompliance, and an assignment to the city prosecutor or city attorney of the right to bring an unlawful detainer action against the tenant.

(E) The assignment shall be on a form provided by the city prosecutor or city attorney and may contain a provision for costs of investigation, discovery, and reasonable attorney's fees, in an amount not to exceed six hundred dollars (\$600). An owner shall only be required to pay the costs or fees upon acceptance of the assignment and the filing of the action for unlawful detainer by the city prosecutor or city attorney.

(F) If the city prosecutor or city attorney accepts the assignment of the right of the owner to bring the unlawful detainer action, the owner shall retain all other rights and duties, including the handling of the tenant's personal property, following issuance of the writ of possession and its delivery to and execution by the appropriate agency.

(2) Upon the failure of the owner to file an action pursuant to this section, or to respond to the city prosecutor or city attorney as provided in paragraph (1), or having filed an action, if the owner fails to prosecute it diligently and in good faith, the city prosecutor or city attorney may file and prosecute the action, and join the owner as a defendant in the action. This action shall have precedence over any similar proceeding thereafter brought by the owner, or to one previously brought by the owner and not prosecuted diligently and in good faith. Service of the summons and complaint upon the defendant owner shall be in accordance with Sections 415.10, 415.20, 415.30, 415.40, and 415.50 of the Code of Civil Procedure.

(3) If a jury or court finds the defendant tenant guilty of unlawful detainer in a case filed pursuant to paragraph (2), the city prosecutor or city attorney may be awarded costs, including the costs of investigation and discovery and reasonable attorney's fees. These costs shall be assessed against the defendant owner, to whom notice was directed pursuant to paragraph (1), and once an abstract of judgment is recorded, it shall constitute a lien on the subject real property.

(4) This section does not prevent a local governing body from adopting and enforcing laws, consistent with this article, relating to drug abatement. If local laws duplicate or supplement this section, this section shall be construed as providing alternative remedies and not preempting the field.

(5) This section does not prevent a tenant from receiving relief against a forfeiture of a lease pursuant to Section 1179 of the Code of Civil Procedure.

(b) In any proceeding brought under this section, the court may, upon a showing of good cause, issue a partial eviction ordering the removal of any person, including, but not limited to, members of the tenant's household if the court finds that the person has engaged in the activities described in subdivision (a). Persons removed pursuant to this section may be permanently barred from returning to or reentering any portion of the entire premises. The court may further order as an express condition of the tenancy that the remaining tenants shall not give permission to or invite any person who has been removed pursuant to this subdivision to return to or reenter any portion of the entire premises.

(c) For the purposes of this section, "controlled substance purpose" means the manufacture, cultivation, importation into the state, transportation, possession, possession for sale, sale, furnishing, administering, or giving away, or providing a place to use or fortification of a place involving, cocaine, phencyclidine, heroin, methamphetamine, or any other controlled substance, in a violation of subdivision (a) of Section 11350, Section 11351, 11351.5, 11352, or 11359, subdivision (a) of Section 11360, or Section 11366, 11366.6, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6, or 11383 of the Health and Safety Code.

(d) Notwithstanding subdivision (b) of Section 68097.2 of the Government Code, a public entity may waive all or part of the costs incurred in furnishing the testimony of a peace officer in an unlawful detainer action brought pursuant to this section.

(e) The notice and documentation described in paragraph (1) of subdivision (a) shall be given in writing and may be given either by personal delivery or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to the owner at the address known to the public entity giving the notice, or as shown on the last equalized assessment roll, if not known. Separate notice of not less than 30 calendar days and documentation shall be provided to the tenant in accordance with this subdivision. Service by mail shall be deemed to be completed at the time of deposit in the United States mail. Proof of giving the notice may be made by a declaration signed under penalty of perjury by any employee of the public entity which shows service in conformity with this section.

(f) In an unlawful detainer action filed pursuant to this section, the court shall make one of the following orders:

(1) If the grounds for an eviction have not been established pursuant to this section, the court shall dismiss, without prejudice, the unlawful detainer action.

(2) If the grounds for an eviction have been established pursuant to this section, the court shall do either of the following:

(A) Order that the tenant and all occupants be immediately evicted from the property.

(B) Dismiss the unlawful detainer action with or without prejudice or stay execution of an eviction order for a reasonable length of time if the tenant establishes by clear and convincing evidence that the immediate eviction would pose an extreme hardship to the tenant and that this hardship outweighs the health, safety, or welfare of the neighbors or surrounding community. However, the court shall not find an extreme hardship solely on the basis of an economic hardship or the financial inability of the tenant to pay for and secure other housing or lodging accommodations.

(3) If the grounds for a partial eviction have been established pursuant to subdivision (b), the court shall order that those persons be immediately removed and barred from the property, but the court shall not order the tenancy be terminated.

(g) This section applies only in the County of Los Angeles to a court having jurisdiction over unlawful detainer cases involving real property situated in the City of Los Angeles.

(h) This section shall become operative on January 1, 2014, only if the City of Los Angeles has regularly reported to the California Research Bureau as required by this section as it read during the period from January 1, 2010, to January 1, 2014, inclusive. For purposes of this section, the City of Los Angeles shall be deemed to have complied with this reporting requirement if the 2013 report to the Legislature by the California Research Bureau indicates that the City of Los Angeles has regularly reported to the bureau.

(Amended by Stats. 2015, Ch. 303, Sec. 33. (AB 731) Effective January 1, 2016.)