88R19694 SCL-F

By:  Harris of Anderson, et al. H.B. No. 1372

Substitute the following for H.B. No. 1372:

By:  Vasut C.S.H.B. No. 1372

A BILL TO BE ENTITLED

AN ACT

relating to the tort of public nuisance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 100C to read as follows:

CHAPTER 100C. PUBLIC NUISANCE CLAIMS

Sec. 100C.001.  DEFINITION. In this chapter, "public nuisance claim" means:

(1)  an assertion in a civil action of an injury caused to the public under the common law tort of public nuisance; or

(2)  a request in a civil action to recover damages, abatement, or other relief under the common law tort of public nuisance.

Sec. 100C.002.  LIMITATIONS ON CLAIM. (a) A public nuisance claim is not cognizable in this state if it seeks relief arising from:

(1)  an action or condition authorized, licensed, approved, or mandated by a statute, ordinance, regulation, permit, order, rule, or other similar measure issued, adopted, promulgated, or approved by the federal government, a federal agency, this state, or an agency or political subdivision of this state;

(2)  an action or condition that occurs or exists in a context where a statutory cause of action or administrative enforcement mechanism already exists to address conduct that is injurious to the public; or

(3)  a product or the manufacturing, distributing, selling, labeling, or marketing of a product, regardless of whether the product is defective.

(b)  The aggregation of multiple injuries to individuals or of private nuisances does not constitute a public nuisance or give rise to a public nuisance claim.

(c)  This section may not be construed to limit a claimant from obtaining relief provided by other law.

Sec. 100C.003.  RELATIONSHIP TO COMMON LAW. To the extent of a conflict between this chapter and common law, this chapter controls. Otherwise, this chapter supplements the common law of public nuisance, both as to the claim and defenses.

SECTION 2.  Chapter 100C, Civil Practice and Remedies Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act.

SECTION 3.  If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable.

SECTION 4.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.