

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

1 injurious to the public; or

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

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

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

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

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

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

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