

By: Harris of Anderson

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 ACTIONS

Sec. 100C.001. DEFINITION. In this chapter, "public nuisance action" means an action asserting a cause of action cognizable as the tort of public nuisance.

Sec. 100C.002. LIMITATIONS ON CAUSE OF ACTION. The following claims, actions, or conditions do not constitute or give rise to a cause of action cognizable as the tort of public nuisance:

(1) an action or condition authorized, approved, or mandated by a court order;

(2) an action or condition authorized, 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, a state, a state agency, or a political subdivision;

(3) a claim that a product endangers the health, safety, or welfare of the public at large or has caused injury to one or more members of the public;

(4) a claim based on the manufacturing, distributing, selling, labeling, or marketing of a product, regardless of whether

1 the product is defective; or

2 (5) any other claim, action, or condition determined  
3 by common law to not constitute or give rise to a cause of action  
4 cognizable as the tort of public nuisance.

5 Sec. 100C.003. RELIEF AVAILABLE TO GOVERNMENTAL ENTITY;  
6 STANDING. (a) In a public nuisance action brought by the state, a  
7 state agency, or a political subdivision of this state, the  
8 remedies available to the governmental entity are limited to an  
9 injunction and any other relief that is available at law to abate  
10 the nuisance. A governmental entity may not recover economic,  
11 noneconomic, or exemplary damages, as those terms are defined by  
12 Section 41.001.

13 (b) This section may not be construed to limit a  
14 governmental entity from obtaining relief provided by other law.

15 (c) A financial expenditure made by the state or a political  
16 subdivision of this state related to the remediation, abatement, or  
17 injunction of an unlawful condition does not constitute an injury  
18 sufficient to confer standing to file or maintain a public nuisance  
19 action.

20 Sec. 100C.004. PUBLIC NUISANCE ACTION BY PRIVATE CITIZEN.  
21 An individual may bring a public nuisance action only for  
22 compensatory damages and only for an injury caused to the  
23 individual by the nuisance that is different in kind, not just in  
24 degree, from an injury suffered by the public at large.  
25 Interference with the use of or damage to public land, air, or water  
26 with only personal, spiritual, cultural, or emotional significance  
27 to the individual does not constitute or give rise to a cause of

1 action cognizable as the tort of public nuisance. The aggregation  
2 of multiple individual injuries or private nuisances does not  
3 constitute violation of an established public right for purposes of  
4 a public nuisance action.

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

8 SECTION 3. This Act takes effect immediately if it receives  
9 a vote of two-thirds of all the members elected to each house, as  
10 provided by Section 39, Article III, Texas Constitution. If this  
11 Act does not receive the vote necessary for immediate effect, this  
12 Act takes effect September 1, 2023.