

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 5, Civil Practice and Remedies Code, is amended by adding Chapter 100C, to read as follows:

CHAPTER 100C. CIVIL ACTIONS RELATED TO PUBLIC NUISANCES

Sec. 100C.001. DEFINITION. In this chapter, "public nuisance claim" means 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 CAUSE OF ACTION. (a) A public nuisance claim is not cognizable in this state if it seeks relief arising from:

(1) an action or condition that is 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, a state, a state agency, or a political subdivision;

(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 a claim based on the manufacturing,

1 distributing, selling, labeling, or marketing of a product,
2 regardless of whether the product is defective.

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

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

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

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

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