

SECOND REGULAR SESSION

HOUSE BILL NO. 2777

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KEATHLEY.

6245H.01I

JOSEPH ENGLER, Chief Clerk

AN ACT

To amend chapter 537, RSMo, by adding thereto one new section relating to public nuisance claims.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 537, RSMo, is amended by adding thereto one new section, to be known as section 537.1650, to read as follows:

537.1650. 1. This section shall be known and may be cited as the "Public Nuisance Reform Act".

2. As used in this section, the following terms mean:

(1) "Governmental entity", an officer, agency, or instrumentality of this state or a political subdivision of the state;

(2) "Illegal product", a product that is possessed by a party alleged to be creating a public nuisance and the party's possession of such product is specifically prohibited by a federal or state statute including, but not limited to, laws regarding controlled substances.

3. Notwithstanding any provision of law, the following nonexclusive list of actions or conditions shall not be considered a public nuisance or otherwise form the basis for a public nuisance cause of action under the laws of this state:

(1) The design, manufacturing, distributing, selling, labeling, or marketing of a product sold in commerce except an illegal product;

(2) An action or condition that is authorized, approved, licensed, or mandated by statute, ordinance, regulation, permit, license, order, rule, or other similar measure

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 issued, adopted, promulgated, or approved by a governmental entity or the federal
18 government;

19 (3) The aggregation of individual injuries or private rights, including private
20 nuisances; or

21 (4) Any other claim, action, or condition determined by common law not to
22 constitute or give rise to a cause of action for public nuisance.

23 4. (1) In addition to all other requirements, the plaintiff in a public nuisance
24 claim shall plead with particularity and prove by a preponderance of the evidence that
25 each named defendant's actions were both a but-for and proximate cause of the alleged
26 public nuisance.

27 (2) For purposes of the requirements under subdivision (1) of this subsection, a
28 but-for cause means that but for the defendant's actions:

29 (a) The alleged public nuisance would not exist in the plaintiff's jurisdiction; or

30 (b) The plaintiff's expenditures to abate or address the nuisance would decrease
31 by more than twenty-five percent.

32 (3) For purposes of the requirements under subdivision (1) of this subsection, a
33 defendant is a proximate cause of a public nuisance only if:

34 (a) The defendant engaged in the activity that directly caused the public
35 nuisance and the public nuisance was a reasonably foreseeable result of defendant's
36 conduct; or

37 (b) The defendant controlled or instructed one or more third persons to engage
38 in the activity or activities that directly caused the public nuisance and the resulting
39 public nuisance was a reasonably foreseeable result of that third-party activity.

40 5. (1) A public nuisance cause of action may be brought by, on the relation of, or
41 in the name of a political subdivision of this state, or any body or officer thereof, only if
42 the alleged public nuisance is wholly contained within the jurisdiction of that political
43 subdivision.

44 (2) In all circumstances other than provided under subdivision (1) of this
45 subsection, no government agency or officer other than the attorney general may bring
46 a public nuisance claim under the laws of this state. Prior to asserting any claim for
47 public nuisance, the attorney general shall confer with and receive the approval of the
48 governor. Such approval shall be in writing.

49 (3) A public nuisance cause of action by a political subdivision or the attorney
50 general shall be brought only by a verified complaint, counterclaim, or third-party
51 complaint that pleads each element with particularity as required by applicable rules of
52 civil procedure.

53 (4) In a public nuisance action brought under this subsection, a court shall not
54 award either of the following:

55 (a) Damages of any kind, including economic, noneconomic, and exemplary
56 damages; or

57 (b) The costs of abating a potential future public nuisance.

58 6. (1) A public nuisance claim may be brought by a private person only if that
59 person has sustained a special injury proximately caused by the defendant's conduct
60 and only if the person proves, by clear and convincing evidence, the existence of the
61 special injury caused by the defendant. A public nuisance claim by a private person
62 shall be brought by a verified complaint, counterclaim, or third-party claim that pleads
63 each element with particularity as required by applicable rules of civil procedure.

64 (2) A special injury under this subsection is an injury that is different in kind,
65 not just in degree, from an injury sustained by the general public exercising the same
66 public right. A special injury shall not be based upon impairment of the spiritual,
67 cultural, or emotional significance associated with a navigable lake, river, bay, stream,
68 canal, or basin or a public park, square, street, road, or highway.

69 (3) Financial expenditures made by a private person related to an injunction of,
70 or any other response to, a public nuisance does not constitute a special injury sufficient
71 to confer standing on the person to file or maintain a public nuisance action.

72 (4) The remedy available to a private person in a public nuisance action is
73 limited solely to compensatory damages for the special injury that are not otherwise
74 reimbursed by a governmental entity or the federal government.

75 (5) The abatement of a public nuisance by the defendant does not preclude the
76 right of a person to recover compensatory damages under this subsection.

77 (6) A private person shall not bring a class action for a public nuisance.

78 7. (1) No claim for public nuisance shall be brought against a defendant more
79 than three years after the plaintiff knew or should have known of the conduct of the
80 defendant that caused the public nuisance.

81 (2) No claim for public nuisance shall recover any damages or other monetary
82 relief for a defendant's conduct occurring more than ten years before the date on which
83 the complaint was filed.

84 8. It is the intent of the general assembly that this section abrogates the common
85 law of public nuisance in this state to the extent the common law is inconsistent with this
86 section.

87 **9. The provisions of this section shall apply to public nuisance claims brought on**
88 **or after August 28, 2026. Nothing in this section extends or reopens the statute of**
89 **limitations for any claim arising before August 28, 2026.**

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