CHAPTER 24

Nuisance Suits Related to Manufacturing and Industrial Uses of Real Property

**SECTION 31‑24‑110.** Definitions.

(A) "Manufacturing sector" means establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products, including, but not limited to, plants, factories, or mills, and characteristically use power‑driven machines and materials‑handling equipment.

(B) "Transportation and warehousing sector" means industries providing transportation of passengers and cargo, warehousing and storage for goods, scenic and sightseeing transportation, and support activities related to modes of transportation by air, rail, water, road, and pipeline.

(C) "Manufacturing or industrial facility" means any facility that operates in a manufacturing sector or transportation and warehousing sector, including, but not limited to, any land, building, structure, pond, impoundment, appurtenance, machinery, or equipment used for manufacturing, processing, distribution, warehousing, and technology intensive operations. Facilities that are covered under Chapter 45, Title 46 of the 1976 Code are not manufacturing or industrial facilities for the purposes of this chapter.

(D) "Reasonably expand" or "reasonable expansion" means any change in operations or facilities that does not result in a material and substantial change in the affected landowner's use and enjoyment of property.

HISTORY: 2018 Act No. 132 (H.3653), Section 1, eff February 12, 2018.

**SECTION 31‑24‑120.** Manufacturing or industrial facilities; public or private nuisance; transferability and waiver of protected status.

(A) A manufacturing or industrial facility, or expansion of such a facility, may not be found to be a public or private nuisance by reason of the operation of that facility if the manufacturing or industrial facility:

(1) is operating pursuant to and in compliance with the requisite licenses, permits, certifications, or authorizations under the applicable federal and state environmental laws and county and municipal zoning and nuisance ordinances; and

(2) commenced operations before the landowner alleging the nuisance acquired, moved onto, or improved the affected property.

(B) If a manufacturing or industrial facility protected pursuant to the provisions of this section seeks to expand its operations or facility and maintain its protected status, then the manufacturing or industrial facility may reasonably expand its operation or facilities without losing its protected status if it is in compliance with all county, municipal, state, and federal environmental codes, laws, or regulations at the time of expansion. This protected status of a manufacturing or industrial facility, once acquired:

(1) is assignable, alienable, and inheritable, provided the manufacturing or industrial facility is operating for the same use as when it commenced operations as provided in subsection (A)(2) or a reasonable expansion thereof as provided in this subsection; and

(2) may not be waived by the temporary cessation of operation for a period not to exceed two years or by diminishing the size of the operation.

HISTORY: 2018 Act No. 132 (H.3653), Section 1, eff February 12, 2018.

**SECTION 31‑24‑130.** Construction of chapter.

The provisions of this chapter may not be construed as modifying a provision of existing statutory eminent domain or environmental law nor as affecting common law claims of trespass or negligent operation.

HISTORY: 2018 Act No. 132 (H.3653), Section 1, eff February 12, 2018.

**SECTION 31‑24‑140.** Application of chapter.

The provisions of this chapter do not apply to nuisance actions commenced within one year after the effective date of this chapter.

HISTORY: 2018 Act No. 132 (H.3653), Section 1, eff February 12, 2018.