

HCS SB 41 -- PRIVATE NUISANCE ACTIONS

SPONSOR: Munzlinger (Hough)

COMMITTEE ACTION: Voted "Do Pass" by the Committee on Judiciary by a vote of 7 to 3.

This substitute prohibits a private nuisance action based on an air emission or water or solid waste discharge, except the placement of nuclear waste, if the emission or discharge was expressly authorized by and not in violation of a statute or regulation; a license issued by a public body specified in the act; or a court order. A person may file suit if the permit or order creates a condition not reasonably foreseeable at the time of issuance or if the permit holder fails to disclose certain facts. The substitute specifies that an action is not precluded for damages based on a claim of trespass.

PROPOSERS: Supporters say that when an individual incurs financial expenses to conduct an engineering study on a piece of property, as long as they are operating within the confines of the permit, he or she should be protected from a nuisance lawsuit.

Testifying for the bill were Senator Munzlinger; Missouri Chamber of Commerce and Industry; Associated Industries of Missouri; Missouri Pork Association; and Missouri Forest Products Association.

OPPOSERS: Those who oppose the bill say that the bill will significantly affect the rights of property owners.

Testifying against the bill was Missouri Association of Trial Attorneys.