



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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**Bill Number:** H. 3653 Signed by Governor on February 12, 2018  
**Author:** Forrester  
**Subject:** Manufacturing or Industrial Facilities  
**Requestor:** House of Representatives  
**RFA Analyst(s):** Heineman  
**Impact Date:** May 14, 2018

**Estimate of Fiscal Impact**

	<b>FY 2018-19</b>	<b>FY 2019-20</b>
<b>State Expenditure</b>		
General Fund	Undetermined	\$0
Other and Federal	\$0	\$0
Full-Time Equivalent Position(s)	0.00	0.00
<b>State Revenue</b>		
General Fund	\$0	\$0
Other and Federal	\$0	\$0
<b>Local Expenditure</b>	Undetermined	\$0
<b>Local Revenue</b>	\$0	\$0

**Fiscal Impact Summary**

This bill will have an undetermined impact on the General Fund expenditures for the Judicial Department since the number of nuisance lawsuits are unavailable. There is no expenditure impact on Other Funds or Federal Funds for the Judicial Department.

The impact on local government expenditures is undetermined due to lack of responses from counties and municipalities and lack of data regarding nuisance lawsuits and complaints statewide.

**Explanation of Fiscal Impact**

**Signed by Governor on February 12, 2018**

**State Expenditure**

This bill creates a new code chapter for nuisance suits for manufacturing and industrial property. This bill defines a manufacturing and industrial facility as a 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. Agricultural Operations as referenced in Chapter 45 of Title 46 are not considered as manufacturing or industrial facilities for the purposes of this bill. This bill defines reasonable expansion as 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.

In addition, this bill adds definitions for the manufacturing sector and the transportation and warehousing sector. A manufacturing or industrial facility, or expansion of such a facility, may not be found to be a public or private nuisance if it 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. Additionally, a manufacturing or industrial facility is protected if they commenced operations before the landowner alleging the nuisance acquired, moved onto, or improved the affected facility.

Once the protected status is acquired, if a manufacturing or industrial facility seeks to expand its operations or facility and maintain its protected status, it may do so and keep 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. In addition, protected status is assignable, alienable, and inheritable provided the manufacturing or industrial facility is operating for the same use as when it commenced operations or had a reasonable expansion. Protected status may not be waived by the temporary interruption of operations for a period not to exceed two years or by diminishing the size of the operation.

This bill may not be construed as modifying a provision of existing statutory eminent domain or environmental law or as affecting common law claims of trespass or negligent operation. This bill does not apply to nuisance actions commenced within one year after the effective date of this bill.

**South Carolina Judicial Department.** The department indicates the curtailing of nuisance lawsuits may lead to fewer nuisance lawsuits being filed in Common Pleas court. However, the department has no data readily available to quantify the number of nuisance lawsuits filed. Any nuisance suits commenced within one year of the effective date of this bill do not apply. Therefore, this bill's expenditure impact on the General Fund for the Judicial Department is undetermined. There is no expenditure impact on Other Funds or Federal Funds.

#### **State Revenue**

N/A

#### **Local Expenditure**

The Revenue and Fiscal Affairs Office contacted twenty-three county governments and the Municipal Association of South Carolina (MASC) regarding the impact of the bill. Three counties and two municipalities responded. Clarendon and Lancaster counties reported this bill will have no fiscal impact since they received only a few nuisance complaints against manufacturing and industrial facilities combined. Florence County stated they have not received nuisance complaints related to manufacturing or industrial sites, and this bill will have no fiscal impact. The MASC indicated they received responses from the Town of Bluffton and the City of Hartsville. Both indicated there would be no fiscal impact to their municipalities.

The bill is not expected to impact local government expenditures for the three counties and two municipalities who responded. However, the overall impact statewide is undetermined given the

limited number of responses and lack of data regarding nuisance lawsuits and complaints statewide.

**Local Revenue**

N/A



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Frank A. Rainwater, Executive Director