**South Carolina General Assembly**

122nd Session, 2017-2018

**A132, R136, H3653**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Forrester, Yow, Loftis, Henegan, Spires, Anderson, Burns, V.S. Moss, Crawford, Hamilton, Felder, Norman, Anthony, Chumley, Erickson, Gagnon, Hayes, Henderson, Hosey, Jefferson, S. Rivers, Ryhal, Sandifer, Thayer, Willis, Atkinson, Alexander, West, Hixon, Murphy, Arrington, Bennett and Crosby

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Companion/Similar bill(s): 323

Introduced in the House on February 2, 2017

Introduced in the Senate on March 29, 2017

Last Amended on January 31, 2018

Passed by the General Assembly on February 7, 2018

Governor's Action: February 12, 2018, Signed

Summary: Manufacturing or industrial facilities

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/2/2017 House Introduced and read first time ([House Journal‑page 19](file:///h:\hj\20170202.docx))

2/2/2017 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 19](file:///h:\hj\20170202.docx))

2/7/2017 House Member(s) request name added as sponsor: Atkinson

2/8/2017 House Member(s) request name added as sponsor: Alexander

2/14/2017 House Member(s) request name added as sponsor: West

3/7/2017 House Committee report: Favorable **Labor, Commerce and Industry** ([House Journal‑page 3](file:///h:\hj\20170307.docx))

3/8/2017 House Requests for debate‑Rep(s). Sandifer, Hiott, Clary, Allison, Hixion, Bedingfield, Martin, Henderson, Blackwell, Toole, Brown, Anderson, Cogswell, Crosby, Danning, Chumley, Long, VS Moss, Elliott, Cole, Hosey, Yow, Erickson, Wheeler, Hewitt, Jordon, Williams, Douglas, W. Newton, Hart, Hill, Tallon, Knight ([House Journal‑page 19](file:///h:\hj\20170308.docx))

3/22/2017 House Member(s) request name added as sponsor: Hixon, Murphy, Arrington, Bennett, Crosby

3/22/2017 House Read second time ([House Journal‑page 62](file:///h:\hj\20170322.docx))

3/22/2017 House Roll call Yeas‑78 Nays‑27 ([House Journal‑page 62](file:///h:\hj\20170322.docx))

3/23/2017 House Read third time and sent to Senate ([House Journal‑page 48](file:///h:\hj\20170323.docx))

3/23/2017 House Roll call Yeas‑75 Nays‑24 ([House Journal‑page 48](file:///h:\hj\20170323.docx))

3/29/2017 Senate Introduced and read first time ([Senate Journal‑page 12](file:///h:\sj\20170329.docx))

3/29/2017 Senate Referred to Committee on **Labor, Commerce and Industry** ([Senate Journal‑page 12](file:///h:\sj\20170329.docx))

4/18/2017 Senate Polled out of committee **Labor, Commerce and Industry** ([Senate Journal‑page 10](file:///h:\sj\20170418.docx))

4/18/2017 Senate Committee report: Favorable **Labor, Commerce and Industry** ([Senate Journal‑page 10](file:///h:\sj\20170418.docx))

1/16/2018 Senate Special order, set for January 16, 2018 ([Senate Journal‑page 12](file:///h:\sj\20180116.docx))

1/23/2018 Senate Debate interrupted ([Senate Journal‑page 27](file:///h:\sj\20180123.docx))

1/24/2018 Senate Amended ([Senate Journal‑page 8](file:///h:\sj\20180124.docx))

1/24/2018 Senate Debate interrupted ([Senate Journal‑page 8](file:///h:\sj\20180124.docx))

1/30/2018 Senate Debate interrupted ([Senate Journal‑page 11](file:///h:\sj\20180130.docx))

1/31/2018 Senate Amended ([Senate Journal‑page 10](file:///h:\sj\20180131.docx))

1/31/2018 Senate Read second time ([Senate Journal‑page 10](file:///h:\sj\20180131.docx))

1/31/2018 Senate Roll call Ayes‑29 Nays‑14 ([Senate Journal‑page 10](file:///h:\sj\20180131.docx))

2/1/2018 Scrivener's error corrected

2/1/2018 Senate Read third time and returned to House with amendments ([Senate Journal‑page 18](file:///h:\sj\20180201.docx))

2/7/2018 House Concurred in Senate amendment and enrolled ([House Journal‑page 19](file:///h:\hj\20180207.docx))

2/8/2018 Ratified R 136

2/12/2018 Signed By Governor

2/15/2018 Effective date 2/12/18

2/20/2018 Act No. 132

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**VERSIONS OF THIS BILL**

[2/2/2017](file:///p:\pprever\2017-18\3653_20170202.docx)

[3/7/2017](file:///p:\pprever\2017-18\3653_20170307.docx)

[4/18/2017](file:///p:\pprever\2017-18\3653_20170418.docx)

[1/24/2018](file:///p:\pprever\2017-18\3653_20180124.docx)

[1/31/2018](file:///p:\pprever\2017-18\3653_20180131.docx)

[2/1/2018](file:///p:\pprever\2017-18\3653_20180201.docx)

(A132, R136, H3653)

**AN ACT** **TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 24 TO TITLE 31 SO AS TO PROVIDE THE OPERATIONS OR EXPANSIONS OF MANUFACTURING OR INDUSTRIAL FACILITIES MAY NOT BE CONSIDERED PUBLIC OR PRIVATE NUISANCES IN CERTAIN CIRCUMSTANCES; TO PROVIDE THIS PROTECTED STATUS IS TRANSFERABLE IN CERTAIN CIRCUMSTANCES; TO PROVIDE THIS PROTECTED STATUS IS NOT waivABLE by temporarily ceasing operationS for a period not to exceed two years or by diminishing the size of operations; TO PROVIDE THAT THE PROVISIONS OF THIS ACT MAY NOT BE CONSTRUED TO MODIFY OR AFFECT STATUTORY EMINENT DOMAIN LAWS, STATUTORY ENVIRONMENTAL LAWS, or common law claims of trespass and negligent operation; AND TO PROVIDE THE PROVISIONS OF THIS ACT DO NOT APPLY TO NUISANCE ACTIONS COMMENCED WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS CHAPTER.**

Be it enacted by the General Assembly of the State of South Carolina:

**Nuisance suits related to manufacturing and industrial uses of real property**

SECTION 1. Title 31 of the 1976 Code is amended by adding:

“CHAPTER 24

Nuisance Suits Related to Manufacturing and Industrial Uses of Real Property

Section 31‑24‑110. (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.

Section 31‑24‑120. (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.

Section 31‑24‑130. 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.

Section 31‑24‑140. The provisions of this chapter do not apply to nuisance actions commenced within one year after the effective date of this chapter.”

**Severability**

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

**Time effective**

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 8th day of February, 2018.

Approved the 12th day of February, 2018.

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