

FIRST REGULAR SESSION

SENATE BILL NO. 41

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MUNZLINGER.

Pre-filed December 1, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

0100S.011

AN ACT

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

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 537.291, to read as follows:

537.291. 1. A person shall not maintain an action to enjoin, abate, or recover damages for a private nuisance based upon an air emission or water or solid waste discharge, other than the placement of nuclear waste, where the emission or discharge was expressly authorized by and is not in violation of a term or condition of:

(1) A statute or regulation;

(2) A license, permit, or order that is issued after public comment by a municipal, county, state, or federal government and subject to continuing compliance oversight, periodic review by the issuing agency, and renewal on a periodic basis; or

(3) A court order or judgment.

2. The provisions of subsection 1 of this section shall not apply if the permit or order creates a condition not reasonably foreseeable at the time of issuance or if the permit holder purposefully fails to disclose facts or conditions that are relevant in the issuance of the permit or order.

✓