

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 41**  
**97TH GENERAL ASSEMBLY**

0100H.03C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

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

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*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  
2 known as section 537.291, to read as follows:

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

5 **(1) A statute or regulation;**

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

9 **(3) A court order or judgment.**

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

14 **3. Nothing in this section shall preclude an action for damages based upon a claim  
15 of trespass.**

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EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.