

SENATE BILL No. 462

AN ACT concerning civil actions; relating to actions in negligence; prohibiting certain persons from recovering damages in such actions; relating to public nuisance; prohibiting civil actions for certain nuisances; providing that only the attorney general may file claims regarding public nuisances that are not wholly contained in one political subdivision unless the attorney general delegates authorization to one or more political subdivisions of the state to file such claims; requiring special injury for certain public nuisance actions.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) Notwithstanding any other provision of law, a person who engaged or participated in wrongful conduct or attempted to engage or participate in wrongful conduct shall not bring an action for negligence or collect damages for negligent conduct related to such wrongful conduct. The party against whom negligence is alleged shall have the burden of proving, by a preponderance of the evidence, that a person was engaging or participating in wrongful conduct or attempting to engage or participate in wrongful conduct.

(b) This section applies to any claim that is filed on and after July 1, 2026.

(c) As used in this section:

(1) "Wrongful conduct" means any violation of:

(A) Federal law that constitutes a crime, regardless of whether such violation results in an arrest, citation, indictment or conviction; or

(B) state law or an ordinance or resolution adopted by a political subdivision of the state that constitutes a felony or a class A or B misdemeanor, regardless of whether such violation results in an arrest, citation, indictment or conviction; and

(2) notwithstanding the provisions of paragraph (1), "wrongful conduct" does not include conduct that constitutes trespass if:

(A) The person committing such conduct is under 18 years of age;

(B) the attractive nuisance doctrine applies to such conduct; and

(C) such person did not have the intent to commit any other violation described in paragraph (1).

Sec. 2. (a) (1) Notwithstanding any provision of law to the contrary, the following actions or conditions shall not be considered a public nuisance or form the basis of a public nuisance cause of action:

(A) The design, manufacturing, distributing, selling, labeling or marketing of a product sold in commerce unless such product is an illegal product;

(B) an action or condition that is authorized, approved, licensed or mandated by law unless such action or condition is alleged to have resulted from negligent conduct; or

(C) the aggregation of individual injuries or private rights, including, but not limited to, private nuisances.

(2) Nothing in paragraph (1)(A) shall preclude claims or causes of action based on other theories of tort liability, including, but not limited to, product liability, consumer protection, design, labeling or marketing.

(b) Except as provided in subsection (d), in a public nuisance claim, the plaintiff shall have the burden of proving by a preponderance of the evidence that the defendant's actions were the proximate cause of the alleged public nuisance.

(1) A public nuisance claim may be brought by a political subdivision of the state if the alleged public nuisance is wholly contained within the jurisdiction of such political subdivision.

(2) If the alleged public nuisance is not wholly contained within a political subdivision of the state, the attorney general is the only governmental official or agency in this state that may file a claim regarding such public nuisance unless the attorney general delegates in writing authorization to one or more political subdivisions of the state to file a claim regarding such public nuisance.

(3) A public nuisance claim by a political subdivision or the attorney general shall be brought by verified complaint, counter-claim or third-party complaint that pleads each element with particularity as required by K.S.A. 60-209, and amendments thereto.

(d) In addition to all other legal requirements, a public nuisance claim may be brought by a private person only if such person has sustained a special injury. A private person shall not bring a class action pursuant to K.S.A. 60-223, and amendments thereto, for a public nuisance claim.

(e) This section applies to all claims that are pending on or filed after July 1, 2026.

(f) As used in this section:

(1) "Governmental entity" means an officer, agency or instrumentality of the federal government, the state or a political subdivision of the state.

(2) "Illegal product" means a product, the possession of which by the party alleged to be creating the nuisance is specifically prohibited by law, including, but not limited to, a controlled substance as defined in K.S.A. 21-5701, and amendments thereto.

(3) "Special injury" means an injury that is different in kind, not just degree, from an injury sustained by the general public exercising the same public right.

(g) The provisions of this act are severable. If any portion of this act is held by a court to be unconstitutional or invalid, or the application of any portion of this act to any person or circumstance is held by a court to be unconstitutional or invalid, the invalidity shall not affect other portions of this act that can be given effect without the invalid portion or application, and the applicability of such other portions of this act to any person or circumstance remains valid and enforceable.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the
SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.