



ISSUE BRIEFING

S.C. Manufacturing Liability Protection Act

The Greenville Chamber, along with our partners at the South Carolina Manufacturers Alliance, is working on legislation that would protect manufacturers who have already obtained necessary state and federal permits for their activities from nuisance lawsuits. As the Upstate economy transitioned from textiles to advanced manufacturing, many industrial facilities were built miles from cities and towns that have since boomed.

Due to urban sprawl, many of these facilities now have residential neighbors, such as the S.C. Technology and Aviation Center, the area along Highway 290 in Duncan, and near Interstate 85 in Anderson County. The challenge to manufacturers today is similar to the challenges faced by agriculture several years ago. Homeowners have moved into areas with existing manufacturing facilities and complain of lights, noise, and odors, among other things, associated with manufacturing. Some of these manufacturing facilities face lawsuits from residents who moved into the area, knowing that there was an industrial facility, and then filed lawsuits claiming damages from their activities.

Current Legislation – H. 3653 & S. 323

These bills protect manufacturers from being found a public or private nuisance if: (1) the manufacturer is operating within their required permits under state and federal environmental law, (2) was located and operating within the vicinity before it become a residential area, and (3) allows manufacturers to make small, but necessary changes to their production line as long as they are permissible under their current permits. **The House passed H. 3653 by a vote of 78-27 on March 22nd, 2017. The Senate has yet to take up either bill.** In our Upstate House Delegation, 26 members voted for the bill, six voted against, and five others had excused absences or were marked as not voting.

The legislation:

- Codifies the existing common law “coming to the nuisance” defense, which should eliminate frivolous litigation and minimizes litigation expenses.
- The liability protection is similar to the Right to Farm Act, which protects farms from nuisance liability. S.C. Code Section 46-45-10 (“Nuisance Suits Related to Agricultural Operations”) provides liability protection for existing agricultural operations by limiting

the circumstances under which agriculture facilities and operations could be considered a nuisance. The Right to Farm Act was justified by the desire to preserve agricultural production.

- The manufacturing legislation, like the farm legislation, prevents the loss of jobs provided by existing industrial facilities by limiting the circumstances under which they may be considered a nuisance.
- The bill limits the common law nuisance actions where land uses expands into areas where industrial and utility facilities or operations are already in existence.
 - This bill preserves and creates jobs and encourages economic development.
 - This bill effectively precludes any local governing body from passing any ordinance that does not conform to state provisions regarding relevant nuisance claims.

The Greenville Chamber's Position

The Greenville Chamber supports H. 3653 and S. 323, which will help protect some of our largest, long-standing employers in the Upstate from unnecessary lawsuits. This legislation was on our 2017 agenda and will be part of our "unfinished business" in 2018.

ACTION ITEM: Please thank your [House members for voting in favor of H. 3653](#) and encourage your Senators to consider and pass this reform so Upstate manufacturers can be protected from unnecessary nuisance lawsuits.