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HOUSE BILL No. 1417

Proposed Changes to introduced printing by AM141703

DIGEST OF PROPOSED AMENDMENT

Limitations. Removes provisions concerning what is not a public nuisance and what does not establish a public nuisance cause of action. Provides that the limitations shall not affect a local administrative code or ordinance, unless the local administrative code or ordinance provides for a civil cause of action and is in conflict with certain provisions. Provides that the award of attorney's fees, costs, and expenses may not total more than \$100,000 (rather than \$5,000) if a recipient does not accept a qualified settlement offer and the final judgment is less favorable to the recipient than the terms of the qualified settlement offer.

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-2.1-19.1-21 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2026]: **Sec. 21. A TNC rider may not:**
4 **(1) maintain a cause of action against; or**
5 **(2) receive an award of damages from;**
6 **a TNC on a claim that arises from the TNC rider being injured by**
7 **a TNC driver or during a TNC ride.**
8 SECTION 2. IC 34-6-2.1-59.5 IS ADDED TO THE INDIANA
9 CODE AS A NEW SECTION TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2026]: **Sec. 59.5. "Established public right",**
11 **for purposes of IC 34-11-10, has the meaning set forth in**
12 **IC 34-11-10-1.**
13 SECTION 3. IC 34-6-2.1-132, AS ADDED BY P.L.186-2025,
14 SECTION 176, IS AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2026]: **Sec. 132. "Noneconomic damages", for**

2026

IN 1417—LS 7115/DI 149



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purposes of IC 34-30-29.2 and IC 34-51-1-4, has the meaning set forth in IC 34-30-29.2-2.

SECTION 4. IC 34-6-2.1-174.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: **Sec. 174.5. "Public nuisance", for purposes of IC 34-11-10, has the meaning set forth in IC 34-11-10-1.**

SECTION 5. IC 34-6-2.1-207.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: **Sec. 207.5. "Unlawful condition", for purposes of IC 34-11-10, has the meaning set forth in IC 34-11-10-1.**

SECTION 6. IC 34-11-10 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]:

Chapter 10. Limitations on a Public Nuisance Action

Sec. 1. The following definitions apply throughout this chapter:

(1) "Established public right" means a right, commonly held by all members of the public, to the use of public land, air, or water.

(2) "Public nuisance" means an ongoing and unlawful condition that proximately causes an interference with an established public right.

(3) "Unlawful condition" means a circumstance that is expressly prohibited by state or federal law.

Sec. 2. For purposes of this chapter, ~~<the following are not a public nuisance>~~:

~~(1) A~~ [a] n action or condition that is ~~<expressly>~~ [otherwise] permitted by:

~~<=>~~ ~~(A)~~ [1] a local ordinance;

~~<=>~~ ~~(B)~~ [2] state or federal law; or

~~<=>~~ ~~(C)~~ [3] a court order~~<~~;

~~(2) The distribution or manufacturing of a product, unless the act of distribution or manufacturing the product creates>[;~~

is not] a public nuisance.

Sec. 3. (a) A public nuisance cause of action is available to a governmental entity if the ~~<unlawful condition>~~ [public nuisance] is ~~<occurring>~~ [located] within the jurisdiction of the governmental entity.

(b) Unless otherwise set forth in statute, a governmental entity



may only bring a civil action concerning a public nuisance to seek prospective injunctive relief for abatement of the public nuisance.

(c) A governmental entity may ~~<not recover economic, noneconomic, or exemplary damages or costs>~~ [only recover damages that are reasonably necessary to abate the public nuisance.]

(d) A governmental entity may not recover money damages] associated with a potential future harm.

[Sec. 4.] ~~(<d) A financial expenditure made by a governmental entity related to an:~~

~~—— (1) injunction concerning an unlawful condition; or~~

~~—— (2) effort to remediate an unlawful condition;~~

~~does not establish a~~ [a] Only one (1)] public nuisance ~~<cause of action:~~

~~—— Sec. 4. (a) A private person may only bring a~~ [action may be brought against a defendant based on the same or substantially similar set of facts.]

(b) A defendant may move to dismiss a second or subsequent] public nuisance ~~<cause of action if an injury suffered by the private person is:~~

~~—— (1) proximately caused by the ongoing, unlawful condition; and~~

~~—— (2) materially different from an injury suffered by another private person who has already filed a civil action related to the same public nuisance.~~

~~—— (b)~~ [under subsection (a) if it is based on the same or substantially similar set of facts.]

(c) A private person may [only] seek the following [damages] in a cause of action brought under this section:

(1) Prospective injunctive relief for abatement of the public nuisance.

(2) Compensatory damages.

~~<— (c) Interference with the personal, spiritual, cultural, or emotional use of public land, air, or water cannot by itself establish a public nuisance cause of action under this section.~~

~~—— (d) A financial expenditure made by a private person related to an:~~

~~—— (1) injunction concerning an unlawful condition; or~~

~~—— (2) effort to remediate an unlawful condition;~~

~~does not establish a public nuisance cause of action.~~

~~—— (e) The aggregation of:~~

~~—— (1) multiple injuries; or~~



~~—(2) private nuisances;
that are not considered a public nuisance individually do not
constitute a public nuisance.~~

➤[Sec. 5. Unless otherwise set forth in statute, it is an affirmative defense to a cause of action brought under this chapter that the defendant does not have actual control over the source of the alleged public nuisance.

[Sec. 6. (a) Except as provided in subsection (b), this chapter shall not affect a local administrative code or ordinance, unless the local administrative code or ordinance:

(1) provides for a civil cause of action; and

(2) is in conflict with the provisions of this chapter.

(b) Nothing in this chapter supersedes applicable building codes, fire codes, or public health and safety laws.

[Sec. ~~6~~[7]. This chapter applies to a cause of action filed on or after July 1, 2026.

SECTION 7. IC 34-12-4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]:

Chapter 4. Prohibited Legal Action Involving Crimes on Private Property

Sec. 1. This chapter does not apply to a criminal act committed by an employee or an agent of a:

- (1) person who owns or has an interest in land;
- (2) person who owns or operates a business;
- (3) third party business operator; or
- (4) property manager.

Sec. 2. (a) A person may not bring or maintain an action against a:

- (1) person who owns property for a criminal act committed by another person on the property;
- (2) person who owns a business for a criminal act committed by another person at the business; or
- (3) third party business operator who conducts business on any premises owned by another person for a criminal act committed by another person on premises owned by another person.

(b) A person may not bring or maintain an action described in subsection (a) if the person was the individual who committed the criminal act.

[SECTION 8. IC 34-50-1-6, AS AMENDED BY P.L.117-2024, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2026]: Sec. 6. (a) If:

- (1) a recipient does not accept a qualified settlement offer; and
- (2) the final judgment is less favorable to the recipient than the terms of the qualified settlement offer;

the court shall award attorney's fees, costs, and expenses to the offeror upon the offeror's motion.

(b) An award of attorney's fees, costs, and expenses under this section must consist of attorney's fees at a rate of not more than two hundred fifty dollars (\$250) per hour and other costs and expenses incurred by the offeror after the date of the qualified settlement offer. However, the award of attorney's fees, costs, and expenses may not total more than five thousand dollars (\$5,000): **one hundred thousand dollars (\$100,000).**

(c) A motion for an award of attorney's fees, costs, and expenses under this section must be filed not more than thirty (30) days after entry of judgment. The motion must be accompanied by an affidavit of the offeror or the offeror's attorney establishing the amount of the attorney's fees and other costs and expenses incurred by the offeror after the date of the qualified settlement offer. The affidavit constitutes prima facie proof of the reasonableness of the amount.

(d) Where appropriate, the court may order a judgment entered against the offeror and in favor of the recipient reduced by the amount of attorney's fees, costs, and expenses awarded to the offeror under this section (or IC 34-4-44.6-8 before its repeal).

] SECTION ~~8~~[9]. IC 34-51-1-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 4. (a) As used in this section, "noneconomic damages" has the meaning set forth in IC 34-30-29.2-2.

(b) A plaintiff may not recover noneconomic damages of more than one million dollars (\$1,000,000).

(c) A judge or jury must make a finding as to the following:

- (1) Noneconomic damages without considering the limitation described in subsection (b).**
- (2) The percentage of fault of the claimant, of any defendant, and of any person who is a nonparty.**

The court shall then multiply the percentage of fault assigned to each defendant by the amount of noneconomic damages found.

(d) The court shall award the plaintiff noneconomic damages in the amount calculated under subsection (c). If the amount calculated is more than one million dollars (\$1,000,000), then the court shall reduce the noneconomic damages to one million dollars



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1 (\$1,000,000). If there is more than one (1) defendant, the court shall
2 reduce the damages proportionally based upon the findings under
3 subsection (c)(2) as to each defendant.
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