



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB3805

Introduced 2/25/2005, by Rep. Rich Brauer

SYNOPSIS AS INTRODUCED:

415 ILCS 5/31.3 new

Amends the Environmental Protection Act. Provides that no person may bring a civil suit based on actual or potential nuisance with respect to a proposed livestock management facility until all required federal, State, and local permits and approvals for the proposed facility have been granted. Provides that, from the time when all required federal, State, and local permits and approvals have been granted until animals are present and operations have actually begun at the proposed facility, it shall be presumed that a proposed livestock management facility can be lawfully operated in accordance with those permits and approvals without creating an actual or potential nuisance. Includes related findings and declarations. Effective immediately.

LRB094 10126 EFG 40387 b

1 AN ACT concerning environmental protection.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by
5 adding Section 31.3 as follows:

6 (415 ILCS 5/31.3 new)

7 Sec. 31.3. Nuisance; livestock management facilities.

8 (a) The General Assembly finds and declares that it is not
9 possible to determine whether the operation of a proposed
10 livestock management facility is likely to create an actual or
11 potential nuisance until all required federal, State, and local
12 permits and approvals for the proposed facility have been
13 granted, because those permits and approvals affect and
14 determine the operating conditions for the proposed facility.

15 The General Assembly further finds and declares that the
16 federal, State, and local governmental entities that have been
17 empowered to regulate the siting, design, construction, and
18 operation of a proposed livestock management facility are, with
19 respect to the matters subject to their respective authorities,
20 in the best possible position to determine whether the proposed
21 facility is likely to create an actual or potential nuisance
22 when sited, designed, constructed, and operated as authorized.

23 (b) No person may bring a civil suit based on actual or
24 potential nuisance with respect to a proposed livestock
25 management facility until all required federal, State, and
26 local permits and approvals for the proposed facility
27 (including without limitation any permits or approvals
28 required under this Act, the Livestock Management Facilities
29 Act, or any applicable local siting approval, zoning, land use,
30 or other requirements) have been granted.

31 (c) In any civil suit based on actual or potential nuisance
32 brought with respect to a proposed livestock management

1 facility, from the time when all required federal, State, and
2 local permits and approvals have been granted until animals are
3 present and operations have actually begun at the proposed
4 facility, it shall be presumed that the facility can be
5 lawfully operated in accordance with those permits and
6 approvals without creating an actual or potential nuisance.

7 (d) This Section does not limit:

8 (1) the authority of the Agency to consider or
9 determine any matter or question relating to the siting,
10 design, construction, or operation of a proposed livestock
11 management facility;

12 (2) the right of any person to raise a question about
13 the likelihood of creating an actual or potential nuisance
14 while lawfully participating in a public hearing or permit
15 appeal process; or

16 (3) the right of any person to bring a civil suit based
17 on actual or potential nuisance with respect to all or any
18 part of a livestock management facility in actual
19 operation.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.