

Section 6-5-127

Nuisance exceptions; right of action for pollution of waters, etc.; relation to municipal ordinances.

(a) No agricultural, manufacturing, or other industrial plant or establishment, farming operation facility, or any racetrack for automobiles or motorcycles, or both, operated in conjunction with a museum that is owned by a nonprofit organization and has a building and collection on display which together have a minimum value of at least one million dollars (\$1,000,000), or any of its appurtenances or the operation thereof shall be or become a nuisance, private or public, by any changed conditions in and about the locality thereof after the same has been in operation for more than one year during which such plant, facility, establishment, farming operation facility, or racetrack, its appurtenances or the operation thereof has not been found by a court of competent jurisdiction to be a nuisance; provided, that the provisions of this subsection shall not apply whenever a nuisance results from the negligent or improper operation of any such plant, establishment, farming operation facility, or racetrack, or any of its appurtenances.

(b) The provisions of subsection (a) shall not affect or defeat the right of any person, firm, or corporation to recover damages for any injuries or damage sustained by them on account of any pollution of, or change in the condition of, the waters of any stream or on account of any overflow of the lands of any person, firm, or corporation.

(c) Any and all ordinances heretofore or hereafter adopted by any municipal corporation in which such plant, establishment, farming operation facility, or racetrack is located, which purports to make the operation of any such plant, establishment, farming operation facility, or racetrack, or its appurtenances a nuisance or providing for an abatement thereof as a nuisance in the circumstances set forth in this section are, and shall be, null and void; provided, that the provisions of this subsection shall not apply whenever a nuisance results from the negligent or improper operation of any such plant, establishment, farming operation facility, or racetrack, or any of its appurtenances.

(d) This section shall not be construed to invalidate any contracts heretofore made, but, insofar as contracts are concerned, is only applicable to contracts and agreements to be made in the future.

(Acts 1915, No. 691, p. 744; Code 1923, §§9277- 9279; Code 1940, T. 7, §§1088-1090; Acts 1978, 2nd Ex. Sess., No. 79, p. 1767; Act 2004-316, p. 538, §1.)