

Hoosier Environmental Council (“HEC”) Legislative Fact Sheet
Oppose the “Environmental Nuisance Actions” Bills (HB 1380 / SB 411)
2021 Legislative Session

HB 1380 authored by Rep. Alan Morrison and SB 411 authored by Sens. Scott Baldwin and Jon Ford are companion bills entitled “*Environmental Nuisance Actions*” (collectively, the “Bill”). The Bill, in combination with Indiana’s Right to Farm Act (Ind. Code § 32-30-6-9) and the Forest/Logging Rights Act (Ind. Code § 32-30-6-11), would eliminate *all available court remedies* that enforce personal and private property rights from infringement by agricultural, industrial and forestry operations that are permitted and compliant with environmental regulations. There are at least three problems with this:

- (1) environmental regulations are intended to protect public health and natural resources, not private property rights;
- (2) there are many instances where environmental regulations do not go far enough to even protect public health and environment from an industry’s allowed discharges, much less prevent those discharges from infringing on the personal and property rights of citizens;¹
- (3) barring all causes of action for damages and injury, would include barring actions for negligence. This is dangerous because it would effectively relieve Indiana industries of their duty to use reasonable, ordinary care not to harm others. Put another way, barring negligence actions would allow an industry’s negligent conduct that harms neighbors to go unchecked.

Hoosiers whose health, quality of life, and/or properties are damaged by polluting and extracting industries such as landfills, waste processing facilities, factory farms, sand/gravel mines, logging operations, refineries, smelters, or any other heavy industry must be allowed to protect their private property rights in court when environmental regulations are inadequate. The Bill would effectively strip impacted citizens of their legal rights, allowing industry to cause harm with impunity.

Please urge your state lawmakers to oppose HB 1380 and SB 411.

¹ An good example of this are the regulations that apply to confined feeding operations (CAFOs), which do not in any way limit or restrict their noxious air pollution. Indeed, CAFOs remain unregulated under clean air laws, and IDEM regulations allow CAFOs, of any size, to be built just 400 feet from a home, regardless of the number of animals or amount of waste produced. The Right to Farm Act already severely limits court remedies for Hoosiers in this situation. *See* IC § 32-30-6-9; *Himsel v. 4/9 Livestock*, 122 N.E.3d 935, 950 (Ind. Ct. App. 2019) (holding that neighbors of a newly built 8000 hog CAFO were barred by the RTFA from obtaining a court remedy in nuisance, negligence and trespass for their property value losses and infringement on their use and enjoyment of their homes) The Bill would leave citizens impacted by CAFOs’ noxious air emissions without any protection or recourse whatsoever.