

SESSION OF 2026

SUPPLEMENTAL NOTE ON SENATE BILL NO. 462

As Amended by House Committee on Judiciary

Brief*

SB 462, as amended, would prohibit certain public nuisance claims, require special injury for certain public nuisance actions, and provide an accrual period for the statute of limitations in public nuisance actions.

The bill would prohibit the following actions or conditions from being considered a public nuisance or to form the basis of a public nuisance cause of action, notwithstanding any existing law to the contrary:

- The design, manufacturing, distributing, selling, labeling, or marketing of a product sold in commerce unless such product is an illegal product, but nothing could preclude these types of claims or causes of action based on other theories of tort liability;
- An action or condition that is authorized, approved, licensed, or mandated by law unless such action or condition is alleged to have resulted from negligent conduct; or
- The aggregation of individual injuries or private rights, including, but not limited to, private nuisances.
- Public Nuisance Claim Brought by a Political Subdivision

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <https://klrd.gov/>

The bill would allow a political subdivision to bring a public nuisance claim if the alleged public nuisance is wholly contained within the jurisdiction of such political subdivision.

Public Nuisance Claim Brought by the Attorney General

If the alleged public nuisance is not wholly contained within a political subdivision, the bill would authorize the Attorney General as the only governmental official or agency that may file a claim regarding such public nuisance, unless the Attorney General delegates authorization, in writing, to one or more political subdivisions to file a public nuisance claim.

Public Nuisance Claim Brought by a Private Person

The bill would require a private person to have sustained a special injury to bring a public nuisance claim. A “special injury” would be defined as one that is different in kind, not just degree, from an injury sustained by the general public exercising the same public right. The bill would prohibit a private person from bringing a class action for a public nuisance claim.

Severability

This bill’s provisions would be severable. If any provision of the bill, or its application to any person or circumstance, is found to be unconstitutional or invalid, the rest of the bill would continue to stand and would be enforceable so long as it could be enforced without the unconstitutional or invalid provisions.

Application

The bill’s provisions would apply to all claims pending or filed on or after July 1, 2026.

Background

The bill was introduced by the Senate Committee on Judiciary at the request of Senator Warren on behalf of Varidon Strategies.

Senate Committee on Judiciary

In the Senate Committee hearing, a representative of the Alliance for Consumers Action Fund provided **proponent** testimony, stating the bill would protect consumers from political lawfare in the form of public nuisance claims while retaining public nuisance claims' legitimate purpose.

The Attorney General provided **neutral** testimony, generally stating the bill would diminish *parens patriae* jurisdiction, under which the Attorney General has the power to stand up for Kansans if there is a true nuisance. The Attorney General suggested amendments that, if included in the bill, would allow the Office of the Attorney General to support it.

Opponent testimony was provided by representatives of the City of Overland Park and the League of Kansas Municipalities (LKM). Opponents generally stated the bill would take authority from local entities, constrain local nuisance enforcement, and prevent Kansans from benefiting from such public nuisance claims.

Written-only opponent testimony was provided by representatives of the City of El Dorado and Kansas Association of Counties (KAC).

No other testimony was provided.

The Senate Committee amended the bill to remove:

- The downstream, post-sale misuse or disposal of a product that is outside the defendant's control and

other claims, actions, or conditions that do not constitute or give rise to a cause of action for public nuisance under common law, from the nonexclusive list of actions or conditions that would not be considered a public nuisance under the bill;

- A requirement that the Attorney General bring nuisance actions that are not wholly contained in one political subdivision;
- A requirement that a cause of action could be brought by a political subdivision of the State only if the alleged public nuisance is wholly contained within the jurisdiction of such political subdivision;
- A prohibition on courts awarding monetary damages or costs of abating potential future public nuisances in public nuisance actions filed by political subdivisions or the Attorney General; and
- A requirement that the Attorney General request a case be dismissed unless the Attorney General obtains the written approval of the Governor.

House Committee on Judiciary

In the House Committee hearing, the Attorney General and a representative of the Alliance for Consumers Action Fund provided substantially similar **proponent** testimony as in the Senate hearing. The Attorney General also provided proponent testimony, expressing support for the amendments added by the Senate Committee.

Written-only proponent testimony was provided by representatives of American Petroleum Institute, American Property Casualty Insurance Association, Kansas Chamber of Commerce, National Shooting Sports Foundation, and U.S. Chamber of Commerce Institute for Legal Reform.

Representatives of the City of Overland Park, the City of Wichita, and LKM provided substantially similar **opponent** testimony as in the Senate hearing.

Written-only opponent testimony was provided by a representative of KAC.

No other testimony was provided.

The House Committee amended the bill to:

- Modify the list of actions or conditions that shall not be considered a public nuisance;
- Specify nothing in the list of actions or conditions that shall not be considered a public nuisance shall preclude claims or causes of action based on other theories of tort liability;
- Remove provisions concerning cause-in-fact and proximate cause determinations in public nuisance claims;
- Modify provisions concerning when a public nuisance claim may be brought by a political subdivision;
- Modify provisions concerning when the Attorney General may bring or delegate authority to a political subdivision to bring a public nuisance claim;
- Remove provisions concerning the burden of proof and awarding of damages in a private person's public nuisance claim;
- Remove a provision that requires the Attorney General be substituted as a plaintiff in a pending public nuisance claim;

- Remove a provision that specifies what a “special injury” does not include; and
- Remove a provision concerning accrual of public nuisance actions.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of the Attorney General indicates enactment of the bill would require \$513,228 from the State General Fund in FY 2027 and \$528,625 in FY 2028. This includes expenditures for 4 FTE positions: 2 Assistant Attorneys General, 1 Legal Assistant, and 1 Trial Assistant. It would also include \$117,907 for related operating costs.

The Office of Judicial Administration indicates the bill would have little fiscal effect on its expenditures, which could be absorbed within existing resources.

The Office of the Governor indicates the bill would have no fiscal effect on the Office.

The Kansas Association of Counties and League of Kansas Municipalities could not estimate precise fiscal effects on counties and cities, respectively, from enactment of the bill.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2027 Governor’s Budget Report*.

Judiciary; public nuisance; civil actions; political subdivisions; Attorney General