



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

SB0145

Introduced 1/31/2007, by Sen. Deanna Demuzio

#### 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 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. Includes related findings and declarations. Effective immediately.

LRB095 04225 CMK 24266 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 the  
9 federal, State, and local governmental entities that have been  
10 empowered to regulate the siting, design, construction, and  
11 operation of a proposed livestock management facility are, with  
12 respect to the matters subject to their respective authorities,  
13 in the best possible position to determine whether the proposed  
14 facility is likely to create an actual or potential nuisance  
15 when sited, designed, constructed, and operated as authorized.

16 (b) No person may bring a civil suit based on potential  
17 nuisance with respect to a proposed livestock management  
18 facility until all required federal, State, and local permits  
19 and approvals for the proposed facility (including without  
20 limitation any permits or approvals required under this Act,  
21 the Livestock Management Facilities Act, or any applicable  
22 local siting approval, zoning, land use, or other requirements)  
23 have been granted.

1       (c) In any civil suit based on potential nuisance brought  
2 with respect to a proposed livestock management facility, from  
3 the time when all required federal, State, and local permits  
4 and approvals have been granted until animals are present and  
5 operations have actually begun at the proposed facility, it  
6 shall be presumed that the facility can be lawfully operated in  
7 accordance with those permits.

8       (d) This Section does not limit:

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

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

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

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