

**NIGHTTIME HIGHWAY CONSTRUCTION NOISE**

**AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kevin T. Van Tassell**

House Sponsor: Johnny Anderson

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**LONG TITLE**

**General Description:**

This bill modifies the Transportation Code by enacting provisions relating to nighttime highway construction noise.

**Highlighted Provisions:**

This bill:

- ▶ provides definitions;
- ▶ provides that certain state highway construction projects are exempt from any noise ordinance, regulation, or standard of a local jurisdictional authority;
- ▶ provides that certain state highway construction projects are exempt from noise standards of any local jurisdictional authority if the department meets certain requirements;
- ▶ requires a local jurisdictional authority or local government to issue a nighttime highway construction noise permit to the Department of Transportation in certain circumstances; and
- ▶ grants the Department of Transportation rulemaking authority to make rules establishing a procedure for a local jurisdictional authority or local government to appeal the decision of the department to conduct nighttime highway construction on roads in certain circumstances.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 ENACTS:

33 **72-6-112.5**, Utah Code Annotated 1953



35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **72-6-112.5** is enacted to read:

37 **72-6-112.5. Definitions -- Nighttime highway construction noise -- Exemptions --**

38 **Permits.**

39 (1) As used in this section:

40 (a) (i) "Front row receptor" means a noise-sensitive residential receptor that is:

41 (A) immediately adjacent to a transportation facility; or

42 (B) within 800 feet of a transportation facility that is within a commercial or

43 industrialized area.

44 (ii) "Front row receptor" includes a residence that is contiguous to a property

45 immediately adjacent to a transportation facility in a residential area.

46 (b) "Nighttime highway construction" means highway construction occurring between

47 the hours of 10:00 p.m. and 7:00 a.m.

48 (2) A state highway construction project conducted on a road where the normal posted

49 speed limit is 55 miles per hour or greater is exempt from any noise ordinance, regulation, or

50 standard of a local jurisdictional authority.

51 (3) A state highway construction project conducted on a road where the normal posted

52 speed limit is less than 55 miles per hour is exempt from any noise ordinance, regulation, or

53 standard of a local jurisdictional authority if the department:

54 (a) provides reasonable written notice at least 48 hours in advance of any required

55 nighttime highway construction to each residential dwelling located within front row receptors

56 of the activity;

57 (b) determines a net community, including traveler community, benefit exists to

58 conduct nighttime highway construction after considering the following:

- 59 (i) public health;
- 60 (ii) project completion time;
- 61 (iii) air quality;
- 62 (iv) traffic;
- 63 (v) economics;
- 64 (vi) safety; and
- 65 (vii) local jurisdiction concerns; and

66 (c) institutes best management noise reduction practices, as determined by the  
67 department, for front row receptors, in consultation with local government or the local  
68 jurisdictional authority for all nighttime highway construction, which may include:

- 69 (i) equipment maintenance;
- 70 (ii) noise shielding;
- 71 (iii) scheduling the most noise intrusive activities during the day; and
- 72 (iv) other noise mitigation methods.

73 (4) (a) Subject to Subsection (2) or (3), a state highway project shall secure required  
74 noise permits from the local jurisdictional authority to conduct nighttime highway construction.

75 (b) To the extent practical, the department shall coordinate with the local jurisdictional  
76 authority during the pre-construction phase of a project to address noise exemption conditions.

77 (5) A local jurisdictional authority shall issue a nighttime highway construction noise  
78 permit without additional requirements to the department at the request of the department or  
79 the department's designated project agent if the requirements of Subsections (2) and (3) are  
80 met.

81 (6) (a) For the exemption provided in Subsection (3) and in accordance with Title 63G,  
82 Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules establishing  
83 procedures:

84 (i) for a local jurisdictional authority or local government to appeal the decision of the  
85 department to conduct nighttime highway construction on roads where the normal posted speed

86 limit is less than 55 miles per hour; and

87 (ii) for the local jurisdictional authority to request that the department enforce the terms  
88 of a noise permit.

89 (b) After review and upon receiving a written notice from a local jurisdictional  
90 authority that the conditions for the noise exemption permit are not met, the department shall  
91 take corrective action to ensure nighttime highway construction activities meet requirements of  
92 the local permit.