

1 **NIGHTTIME HIGHWAY CONSTRUCTION NOISE**

2 **AMENDMENTS**

3 2016 GENERAL SESSION

4 STATE OF UTAH

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

6 House Sponsor: Johnny Anderson

7

8 **LONG TITLE**

9 **General Description:**

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

12 **Highlighted Provisions:**

13 This bill:

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

27 **Money Appropriated in this Bill:**



28 None

29 **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) Subject to Subsection (2) or (3), a state highway project shall secure required noise
74 permits from the local jurisdictional authority to conduct nighttime highway construction.
75 (5) A local jurisdictional authority shall issue a nighttime highway construction noise
76 permit without additional requirements to the department at the request of the department or
77 the department's designated project agent if the requirements of Subsections (2) and (3) are
78 met.
79 (6) (a) For the exemption provided in Subsection (3) and in accordance with Title 63G,
80 Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules establishing
81 procedures:
82 (i) for a local jurisdictional authority or local government to appeal the decision of the
83 department to conduct nighttime highway construction on roads where the normal posted speed
84 limit is less than 55 miles per hour; and
85 (ii) for the local jurisdictional authority to request that the department enforce the terms
86 of a noise permit.
87 (b) After review and upon receiving a written notice from a local jurisdictional
88 authority that the conditions for the noise exemption permit are not met, the department shall
89 take corrective action to ensure nighttime highway construction activities meet requirements of

90 the local permit.

**Legislative Review Note
Office of Legislative Research and General Counsel**