



# HB0330 compared with HB0330S01

abrogates the common law to the extent the common law is inconsistent with the affirmative defense.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 ENACTS:

27 **78B-4-901** , Utah Code Annotated 1953

28 **78B-4-902** , Utah Code Annotated 1953

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

31 Section 1. Section **1** is enacted to read:

33 **78B-4-901. Definitions.**

9. Limitations on Liability Based on Governmental Authorization

As used in this part, "governmental entity" means the same as that term is defined in Section 63G-7-102.

36 Section 2. Section **2** is enacted to read:

37 **78B-4-902. Affirmative defense -- Reliance on governmental authorization -- Civil actions.**

36 (1) Except as provided in Subsection (2) or (3)(c), a person has an affirmative defense in a civil action if:

38 (a) the conduct, omission, or condition alleged to have caused the plaintiff harm was authorized or required by:

40 (i) statute;

41 (ii) ordinance;

42 (iii) administrative rule;

43 (iv) a permit, license, or order; or

44 (v) another written instrument that has the force of law and is issued by a governmental entity; and

46 (b) the authorization or requirement described in Subsection (1)(a) was in effect at the time the conduct, omission, or condition occurred, which is:

48 (i) for conduct, when the conduct is undertaken;

## HB0330 compared with HB0330S01

- 49 (ii) for an omission, when the omission occurs; and  
50 (iii) for a condition, when the condition initially arises.
- 51 (2) The affirmative defense described in Subsection (1) does not apply if the plaintiff proves that:  
53 (a) the person materially failed to comply with the terms or conditions of the authorization or  
requirement described in Subsection (1); {or}  
55 (b) the person's conduct exceeded the scope of the authorization or requirement described in Subsection  
(1){-} ; or  
60 (c) the plaintiff's harm was proximately caused by negligent, reckless, fraudulent, or deceptive conduct  
in obtaining or carrying out the authorized activity or requirement described in Subsection (1),  
including a failure to disclose known material risks, and not by the authorization or requirement  
itself.
- 57 (3) This section does not:  
58 (a) create a cause of action;  
59 (b) affect the availability of another defense in a civil action; {or}  
60 (c) apply to any action for damages for personal injury, death, or property damages allegedly caused by  
a defect , dangerous condition, or {defective-} failure to warn of a defect or dangerous condition in a  
product{-} ; or
- 70 (d) abrogate, eliminate, or reduce any common law or statutory duty to exercise reasonable care under  
the circumstances.
- 62 (4) The affirmative defense described in this section applies in a civil action regardless of whether the  
civil action is based on negligence, strict liability, nuisance, or another theory of liability.
- 65 (5) This section abrogates the common law to the extent the common law is inconsistent with this  
section.
- 67 (6) If any provision of this section is held invalid, the invalidity does not affect any other provision of  
this section that can be given effect without the invalid provision.

79 Section 3. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

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