

HB0330 compared with HB0330S02

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

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 ENACTS:

25 **78B-4-901** , Utah Code Annotated 1953

26 **78B-4-902** , Utah Code Annotated 1953

27

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

29 Section 1. Section 1 is enacted to read:

31 **78B-4-901. Definitions.**

 9. Limitations on Liability Based on { ~~Governmental~~ } Governmental Authorization

 As used in this { ~~part, "governmental"~~ } part, "governmental" entity" means the same as that term is
32 defined in

Section 63G-7-102.

34 Section 2. Section 2 is enacted to read:

35 **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:

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- 48 (i) for conduct, when the conduct is undertaken;
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
governmental entity that issued the authorization or requirement described in Subsection (1) has
determined 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~~
- 58 (c) the person procured the authorization or requirement by fraud.
- 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~~ } a products liability action { ~~for damages for personal injury, death, or property~~
damages allegedly caused by a defect or defective condition in a product. } ; ~~or~~
- 63 (d) abrogate, eliminate, or reduce any common law or statutory duty to exercise reasonable care under
the circumstances.
- 62 (4) { ~~The~~ } Subject to Subsections (2) and (3), the affirmative defense described in this section applies
{ ~~in~~ } to a civil action regardless of { ~~whether~~ } the { ~~civil action is based on negligence, strict~~
~~liability, nuisance, or another~~ } theory of liability on which the action is based.
- 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.

71 Section 3. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

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