

HB0330S02 compared with HB0330S01

~~{Omitted text}~~ shows text that was in HB0330S01 but was omitted in HB0330S02
inserted text shows text that was not in HB0330S01 but was inserted into HB0330S02

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Liability Limitations Amendments
2026 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Colin W. Jack
Senate Sponsor: Ronald M. Winterton



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3 **LONG TITLE**

4 **General Description:**

5 This bill creates an affirmative defense.

6 **Highlighted Provisions:**

7 This bill:

8 ▶ creates an affirmative defense in a civil action for conduct, an omission, or a condition authorized or required by a governmental entity;

10 ▶ ~~{provides that}~~ specifies the circumstances in which the affirmative defense described above does not apply ~~{if a person fails to comply with}~~ , ~~{or exceeds the scope of, a governmental entity's authorization or requirement, or causes harm through a defective product}~~ including in an action for products liability;

13 ▶ clarifies when conduct, an omission, or a condition is considered to have occurred for purposes of the affirmative defense;

15 ▶ clarifies that lawful authorization ~~{is not a defense}~~ to ~~{harm caused by negligent, reckless, fraudulent, or deceptive conduct and}~~ engage in an activity does not eliminate a duty to exercise reasonable care;

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- 18 ▶ specifies that the affirmative defense applies regardless of the theory of liability; and
19 ▶ abrogates the common law to the extent the common law is inconsistent with the affirmative
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
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.**

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

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

43 (i) statute;

44 (ii) ordinance;

45 (iii) administrative rule;

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

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

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- (b) the authorization or requirement described in Subsection (1)(a) was in effect at the time the conduct, omission, or condition occurred, which is:
- 51 (i) for conduct, when the conduct is undertaken;
52 (ii) for an omission, when the omission occurs; and
53 (iii) for a condition, when the condition initially arises.
- 54 (2) The affirmative defense described in Subsection (1) does not apply if the plaintiff proves that
the governmental entity that issued the authorization or requirement described in Subsection (1) has
determined that:
- 56 (a) the person materially failed to comply with the terms or conditions of the authorization or
requirement {described in Subsection (1)} ;
- 58 (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.}}~~
- 58 (c) the person procured the authorization or requirement by fraud.
- 64 (3) This section does not:
- 65 (a) create a cause of action;
66 (b) affect the availability of another defense in a civil action;
- 67 ~~{(c) {apply to any action for damages for personal injury, death, or property damages allegedly caused~~
~~by a defect, dangerous condition, or failure to warn of a defect or dangerous condition in a product;~~
~~or}}~~
- 62 (c) apply to a products liability action; or
- 70 (d) abrogate, eliminate, or reduce any common law or statutory duty to exercise reasonable care under
the circumstances.
- 72 (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.
- 75 (5) This section abrogates the common law to the extent the common law is inconsistent with this
section.

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77 (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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