

# HB0591S03 compared with HB0591S02

~~{Omitted text}~~ shows text that was in HB0591S02 but was omitted in HB0591S03  
inserted text shows text that was not in HB0591S02 but was inserted into HB0591S03

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**Nuisance Amendments**  
2026 GENERAL SESSION  
STATE OF UTAH  
**Chief Sponsor: Colin W. Jack**  
Senate Sponsor: Brady Brammer

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**LONG TITLE**

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**General Description:**

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This bill addresses private and public nuisances.

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**Highlighted Provisions:**

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This bill:

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▸ renumbers and repeals statutes in Title 47, Nuisances;

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▸ modifies definitions for public nuisance crimes;

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▸ repeals and renumbers statutes related to a civil action for a public nuisance;

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▸ ~~{creates a sunset for statutory provisions allowing the attorney general to bring a common law civil right of action for a public nuisance or private nuisance in certain circumstances;}~~

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▸ renumbers statutory provisions in Title 78B, Chapter 6, Part 11, Nuisance, to Title 78B, Chapter 6a, Civil Actions for Nuisances;

16

▸ defines terms related to public and private nuisances;

17

▸ abrogates the common law right of action for a public or private nuisance;

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▸ provides an exception for the attorney general with regard to the abrogation of the common law civil right of action for a public or private nuisance;

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17       ▶ creates a reporting requirement for the Judiciary Interim Committee regarding the  
exception for the attorney general to the abrogation of the common law civil right of action for a  
public or private nuisance;

- 20       ▶ creates {a right} rights of action for a public nuisance;
- 21       ▶ clarifies and amends the right of action for a private nuisance;
- 22       ▶ addresses defenses for private and public nuisance actions; and
- 23       ▶ makes technical and conforming changes.

### 24 Money Appropriated in this Bill:

25       None

### 26 Other Special Clauses:

27       None

### 28 Utah Code Sections Affected:

29 AMENDS:

30       **10-3-703** , as last amended by Laws of Utah 2025, Chapter 141

31       **17-64-501** , as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 13

33       **17-81-101** , as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 14

35       **17-81-304** , as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 14

37       **23A-13-303** , as last amended by Laws of Utah 2025, Chapter 173

38       **40-11-13** , as enacted by Laws of Utah 2022, Chapter 62

39       ~~**{63I-1-278 , as last amended by Laws of Utah 2025, Chapter 26}**~~

39       **72-6-112.5** , as last amended by Laws of Utah 2023, Chapter 22

40       **76-5c-103** , as renumbered and amended by Laws of Utah 2025, Chapter 173

41       **76-9-1301** , as renumbered and amended by Laws of Utah 2025, Chapter 173

42       **78B-6-802** , as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 19

43       **78B-6-805** , as last amended by Laws of Utah 2018, Chapter 291

44       **78B-6-806** , as renumbered and amended by Laws of Utah 2008, Chapter 3

45       **78B-6-811** , as last amended by Laws of Utah 2025, Chapter 275

46       **78B-6-813** , as renumbered and amended by Laws of Utah 2008, Chapter 3

47 ENACTS:

48       **4-47-101** , Utah Code Annotated 1953

49       **78B-6a-102** , Utah Code Annotated 1953

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50 **78B-6a-201** , Utah Code Annotated 1953

51 **78B-6a-202** , Utah Code Annotated 1953

52 **78B-6a-203** , Utah Code Annotated 1953

53 **78B-6a-204** , Utah Code Annotated 1953

54 **78B-6a-301** , Utah Code Annotated 1953

55 **78B-6a-303** , Utah Code Annotated 1953

56 **78B-6a-401** , Utah Code Annotated 1953

57 **78B-6a-407** , Utah Code Annotated 1953

58 **78B-6a-408** , Utah Code Annotated 1953

59 RENUMBERS AND AMENDS:

60 **4-47-102** , (Renumbered from 47-2-3, Utah Code Annotated 1953)

61 **4-47-201** , (Renumbered from 47-2-4, as last amended by Laws of Utah 2009, Chapter 388)

63 **4-47-202** , (Renumbered from 47-2-5, as last amended by Laws of Utah 1993, Chapter 227)

65 **4-47-203** , (Renumbered from 47-2-6, as last amended by Laws of Utah 2025, Chapter 302)

67 **4-47-204** , (Renumbered from 47-2-7, as last amended by Laws of Utah 1993, Chapter 227)

69 **53-5a-701** , (Renumbered from 47-3-102, as last amended by Laws of Utah 2015, Chapter 258)

71 **53-5a-702** , (Renumbered from 47-3-201, as renumbered and amended by Laws of Utah 2013, Chapter 155)

73 **53-5a-703** , (Renumbered from 47-3-202, as renumbered and amended by Laws of Utah 2013, Chapter 155)

75 **53-5a-704** , (Renumbered from 47-3-301, as enacted by Laws of Utah 2013, Chapter 155)

77 **53-5a-705** , (Renumbered from 47-3-302, as enacted by Laws of Utah 2013, Chapter 155)

79 **53-5a-706** , (Renumbered from 47-3-303, as enacted by Laws of Utah 2013, Chapter 155)

81 **53-5a-707** , (Renumbered from 47-3-304, as enacted by Laws of Utah 2013, Chapter 155)

83 **53-5a-708** , (Renumbered from 47-3-305, as last amended by Laws of Utah 2025, Chapters 173, 208)

85 **78B-6a-101** , (Renumbered from 78B-6-1101, as last amended by Laws of Utah 2025, First Special Session, Chapter 15)

87 **78B-6a-103** , (Renumbered from 78B-6-1114, as last amended by Laws of Utah 2025, Chapter 141)

89 **78B-6a-104** , (Renumbered from 78B-6-1102.5, as last amended by Laws of Utah 2025, Chapter 141)

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- 91 **78B-6a-302** , (Renumbered from 78B-6-1102, as last amended by Laws of Utah 2025, Chapter 141)  
93 **78B-6a-304** , (Renumbered from 78B-6-1113, as last amended by Laws of Utah 2025, Chapter 141)  
95 **78B-6a-402** , (Renumbered from 78B-6-1103, as last amended by Laws of Utah 2025, Chapters  
141, 173)  
97 **78B-6a-403** , (Renumbered from 78B-6-1115, as enacted by Laws of Utah 2019, Chapter 227)  
99 **78B-6a-404** , (Renumbered from 4-44-201, as enacted by Laws of Utah 2019, Chapter 81)  
101 **78B-6a-405** , (Renumbered from 78B-6-1106, as last amended by Laws of Utah 2025, Chapter 141)

### REPEALS:

- 104 **4-44-101** , as enacted by Laws of Utah 2019, Chapter 81  
105 **4-44-102** , as last amended by Laws of Utah 2025, First Special Session, Chapter 16  
106 **4-44-202** , as last amended by Laws of Utah 2025, Chapter 173  
107 **47-1-1** , Utah Code Annotated 1953  
108 **47-1-2** , as last amended by Laws of Utah 2024, Chapter 365  
109 **47-1-3** , as last amended by Laws of Utah 2024, Chapter 365  
110 **47-1-4** , as last amended by Laws of Utah 1986, Chapter 178  
111 **47-1-5** , as last amended by Laws of Utah 2025, Chapter 302  
112 **47-1-6** , Utah Code Annotated 1953  
113 **47-1-7** , as last amended by Laws of Utah 2024, Chapter 365  
114 **47-1-8** , as last amended by Laws of Utah 1986, Chapter 178  
115 **47-2-1** , Utah Code Annotated 1953  
116 **47-2-2** , Utah Code Annotated 1953  
117 **47-3-101** , as enacted by Laws of Utah 2013, Chapter 155  
118 **76-9-1306** , as renumbered and amended by Laws of Utah 2025, Chapter 173  
119 **76-9-1307** , as renumbered and amended by Laws of Utah 2025, Chapter 173  
120 **78B-6-1107** , as last amended by Laws of Utah 2025, Chapters 141, 173, 174, 178, and 208  
122 **78B-6-1108** , as last amended by Laws of Utah 2025, Chapter 141  
123 **78B-6-1109** , as last amended by Laws of Utah 2025, Chapter 141  
124 **78B-6-1110** , as last amended by Laws of Utah 2025, Chapter 141  
125 **78B-6-1111** , as last amended by Laws of Utah 2025, Chapter 141  
126 **78B-6-1112** , as last amended by Laws of Utah 2025, Chapter 141

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## HB0591S02 compared with HB0591S03

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

129 Section 1. Section 1 is enacted to read:

132 **4-47-101. Definitions for chapter.**

47. Abandoned Horses

1. General Provisions

As used in this chapter:

135 (1)

(a) "Abandoned horse" means any horse, ass, mule, or other animal of the genus Equus, unbranded, or, if branded, that has escaped assessment for taxation for the year next preceding the killing of such animal as hereinafter provided for, and running at large upon the open range of this state.

139 (b) "Abandoned horse" includes a foal running with a dam described in Subsection (1)(a).

140 (2)

(a) "Open range" means all land not privately owned.

141 (b) "Open range" includes all roads, outside of private enclosures, used by the public, whether the same have been formally dedicated to the public or not.

143 (3) "Unbranded" means an animal not bearing a decipherable brand recorded in accordance with Section 4-24-202.

144 Section 2. Section 4-47-102 is renumbered and amended to read:

146 ~~[47-2-3]~~ **4-47-102. Abandoned horses on open range declared a public menace.**

149 (1) It shall be unlawful for any person to suffer or permit any abandoned horse to run at large upon the open range~~], and every abandoned horse is declared to be a public nuisance and a public menace, and is condemned subject to the right of its owner to reclaim it under the conditions hereinafter provided.]~~ .

153 (2) It is in the public interest that every abandoned horse be declared a public menace and is condemned, subject to the right of the horse's owner to reclaim the horse under the conditions described in this chapter.

155 Section 3. Section 4-47-201 is renumbered and amended to read:

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### **Part 2. Process for Abandoned Horses**

158 ~~[47-2-4]~~ **4-47-201. Elimination by the county executive -- Notice of intention.**

160 (1) The county executive may provide for the elimination of abandoned horses in the respective counties in the following manner:

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- 162 (a) The county executive shall cause notice to be:  
163 (i)  
(A) published at least once a week for three successive weeks in a newspaper of general circulation  
published in the county; and  
165 (B) in accordance with Section 45-1-101, published for three weeks;  
166 (ii) posted in at least five public places outside of the county seat on public highways in such county;  
and  
168 (iii) posted in three public places at the county seat, one of which shall be at the front door of the  
courthouse.  
170 (b) The notices posted outside of the county seat shall be posted not less than two miles apart, and all  
posted notices shall be posted at least 30 days before the date which the county executive shall  
fix for the beginning of the elimination of abandoned horses from the range in such county as  
hereinafter provided.  
174 (2) The notice shall be substantially in the following form:

175 Notice is hereby given that in accordance with the provisions of law the county executive of  
\_\_\_\_ County, Utah, will proceed to eliminate abandoned horses from the open range in said county,  
and that beginning on \_\_\_\_\_(month\day\year), a drive will be held, and all abandoned horses  
running upon the open range will, under the direction and supervision of the county executive, be  
eliminated. All owners of horses running upon the open range are hereby given notice to file with  
the county executive a description of the horses, and the brands or marks thereon.

182 Dated this \_\_\_\_\_(month\day\year).

183 By order of the county executive of \_\_\_\_ County, Utah.

184 \_\_\_\_\_

185 County Clerk.

185 Section 4. Section **4-47-202** is renumbered and amended to read:

187 ~~[47-2-5]~~ **4-47-202. Elimination by the county legislative body -- Method -- Sale.**

- 189 (1) A policy for the manner and method of eliminating abandoned horses from the open range shall  
be in the discretion of the county legislative body, and it shall be [its] the county legislative body's  
duty to so eliminate abandoned horses, using the means most effective and economical under the  
circumstances.  
193 (2) The county executive may sell all captured horses.

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193 Section 5. Section **4-47-203** is renumbered and amended to read:

195 ~~[47-2-6]~~ **4-47-203. Owners may reclaim -- Damages -- Taxes.**

197 (1) Any person owning any horses which are running at large in any county in which the county executive has given notice of intention to make a drive, as provided in this chapter, may within 30 days after the posting or the first publication of the notice mentioned in Section ~~[47-2-4]~~ 4-47-201 file with the county executive a description of such horses claimed by the person, giving the marks and brands, if any, which appear thereon, and, if the county executive shall take into ~~[its]~~ the county executive's possession any horses so claimed, ~~[it]~~ the county executive shall by registered letter addressed to the owner or claimant of such horses notify the owner or claimant that the same may be claimed within 10 days from the mailing of such notice; and such owner or claimant shall be permitted upon application to the county legislative body to take possession of such horses upon payment of the expense of caring for the same from the date of capture.

209 (2) If any horses are killed by order of the county executive under the provisions of this chapter, a description of which has been reported by the owner thereof to the county legislative body, and ownership of such animals can be satisfactorily established, such owner shall receive as damage therefor a sum not exceeding \$10 for each animal; provided, that the owner has paid all taxes assessed against said animal; provided further, that payment of such claims may be made only from proceeds of sales of captured horses.

215 Section 6. Section **4-47-204** is renumbered and amended to read:

217 ~~[47-2-7]~~ **4-47-204. Elimination from private property on request.**

Abandoned horses may be eliminated from privately owned land by the county executive in the same manner as from the open range when requested so to do by the owner of such land.

221 Section 7. Section **10-3-703** is amended to read:

222 **10-3-703. Criminal penalties for violation of ordinance -- Civil penalties prohibited -- Exceptions.**

225 (1)

(a) The governing body of a municipality may impose a criminal penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Section 76-3-301, by a term of imprisonment up to six months, or by both the fine and term of imprisonment.

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- 229 (b) Notwithstanding Subsection (1)(a), a municipality may not impose a criminal penalty greater than  
an infraction for a violation pertaining to an individual's pet, as defined in Section 4-12-102, or an  
individual's use of the individual's residence unless:
- 232 (i) the violation:
- 233 (A) is a [~~nuisance as that term is defined in Section 78B-6-1101~~] private nuisance as that term is defined  
in Section 78B-6a-101; and
- 235 (B) threatens the health, safety, or welfare of the individual or an identifiable third party; or
- 237 (ii) the municipality has imposed a fine on the individual for a violation that involves the same  
residence or pet on three previous occasions within the past 12 months.
- 239 (c) Subsection (1)(b) does not apply to municipal enforcement of a building code or fire code ordinance  
in accordance with Title 15A, State Construction and Fire Codes Act.
- 241 (2)
- (a) Except as provided in Subsection (2)(b), the governing body may prescribe a civil penalty for the  
violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor  
fine under Section 76-3-301.
- 244 (b) A municipality may not impose a civil penalty and adjudication for the violation of a municipal  
moving traffic ordinance.
- 246 (3)
- (a) Except as provided in Subsection (3)(b) or Section 77-7-18, a municipal officer or official who  
is not a law enforcement officer described in Section 53-13-103 or a special function officer  
described in Section 53-13-105 may not issue a criminal citation for a violation that is punished as a  
misdemeanor.
- 250 (b) Notwithstanding Subsection (1) or (3)(a), the following may issue a criminal citation for a violation  
that is punished as a misdemeanor if the violation threatens the health and safety of an animal or the  
public:
- 253 (i) a fire officer described in Section 53-7-102; or
- 254 (ii) an animal control officer described in Section 11-46-102.
- 255 (4) A municipality may not issue more than one infraction within a 14-day time period for a violation  
described in Subsection (1)(b) that is ongoing.
- 256 Section 8. Section **17-64-501** is amended to read:
- 257 **17-64-501. Ordinances -- Power to enact -- Penalty for violation.**

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- 259 (1) A legislative body may:
- 260 (a) pass ordinances:
- 261 (i) necessary for carrying into effect or discharging the powers and duties conferred by this title; and
- 263 (ii) as are necessary and proper to provide for the safety, and preserve the health, promote the  
prosperity, improve the morals, peace, and good order, comfort, and convenience of the county and  
county inhabitants, and for the protection of property in the county;
- 267 (b) enforce obedience to ordinances with fines or penalties as the legislative body considers proper;
- 269 (c) pass ordinances to control air pollution;
- 270 (d) pass resolutions; and
- 271 (e) make or adopt policies that conform with a county ordinance, county resolution, or provision of state  
or federal law.
- 273 (2)
- (a)
- (i) Punishment imposed under Subsection (1)(b) shall be by fine, imprisonment, or both fine and  
imprisonment.
- 275 (ii) A fine imposed under Subsection (2)(a)(i) may not exceed the maximum fine for a class B  
misdemeanor under Section 76-3-301.
- 277 (b) Notwithstanding Subsection (2)(a), a county may not impose a criminal penalty greater than an  
infraction for a violation pertaining to an individual's pet, as defined in Section 4-12-102, or an  
individual's use of the individual's residence unless:
- 280 (i) the violation:
- 281 (A) is a ~~[nuisance as that term is defined in Section 78B-6-1101]~~ private nuisance as described in  
Section 78B-6a-101; and
- 283 (B) threatens the health, safety, or welfare of the individual or an identifiable third party; or
- 285 (ii) the county has imposed a fine on the individual for a violation that involves the same residence or  
pet on three previous occasions within the past 12 months.
- 287 (c) Subsection (2)(b) does not apply to county enforcement of a building code or fire code ordinance in  
accordance with Title 15A, State Construction and Fire Codes Act.
- 289 (d) When a penalty for a violation of an ordinance includes any possibility of imprisonment, the  
legislative body shall include in the ordinance a statement that the county is required, under Section  
78B-22-301, to provide for indigent defense services, as that term is defined in Section 78B-22-102.

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- 293 (e) Notwithstanding any other provision of law, the following may issue a criminal citation for a  
violation that is punished as a misdemeanor if the violation threatens the health and safety of an  
animal or the public:
- 296 (i) a fire officer described in Section 53-7-102;
- 297 (ii) a law enforcement officer described in Section 53-13-103; or
- 298 (iii) an animal control officer described in Section 11-46-102.
- 299 (3)
- (a) Except as specifically authorized by statute, the legislative body may not impose a civil penalty for  
the violation of a county traffic ordinance.
- 301 (b) Subsection (3)(a) does not apply to an ordinance regulating the parking of vehicles on a highway.
- 303 (4) A county may not issue more than one infraction within a 14-day period for a violation described in  
Subsection (2)(b) that is ongoing.
- 304 Section 9. Section **17-81-101** is amended to read:
- 305 **17-81-101. Definitions.**
- As used in this chapter:
- 308 (1) "Advisory board" means:
- 309 (a) for an agriculture protection area, the agriculture protection area advisory board created as provided  
in Section 17-81-102;
- 311 (b) for an industrial protection area, the industrial protection area advisory board created as provided in  
Section 17-81-102; and
- 313 (c) for a critical infrastructure materials protection area, the critical infrastructure materials protection  
area advisory board created as provided in Section 17-81-102.
- 315 (2) "Agricultural land" means the same as the term "land in agricultural use" is defined in Section  
59-2-502.
- 317 (3) "Agricultural operation" means the same as that term is defined in Section 78B-6a-101.
- 318 [~~3~~] (4)
- (a) "Agriculture production" means production for commercial purposes of crops, livestock, and  
livestock products.
- 320 (b) "Agriculture production" includes the processing or retail marketing of any crops, livestock, and  
livestock products when more than 50% of the processed or merchandised products are produced by  
the farm operator.

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- 323 [~~(4)~~] (5) "Agriculture protection area" means a geographic area created under the authority of this  
chapter that is granted the specific legal protections contained in this chapter.
- 325 [~~(5)~~] (6) "Applicable legislative body" means:
- 326 (a) with respect to a proposed agriculture protection area, industrial protection area, or critical  
infrastructure materials protection area:
- 328 (i) the legislative body of the county in which the land proposed to be included in the relevant  
protection area is located, if the land is within the unincorporated part of the county; or
- 331 (ii) the legislative body of the city or town in which the land proposed to be included in the relevant  
protection area is located; and
- 333 (b) with respect to an existing agriculture protection area, industrial protection area, or critical  
infrastructure materials protection area:
- 335 (i) the legislative body of the county in which the relevant protection area is located, if the relevant  
protection area is within the unincorporated part of the county; or
- 337 (ii) the legislative body of the city or town in which the relevant protection area is located.
- 339 [~~(6)~~] (7) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.
- 340 [~~(7)~~] (8) "Commercial quantities" means critical infrastructure materials:
- 341 (a) extracted or processed by a commercial enterprise in the ordinary course of business; and
- 343 (b) in a sufficient amount that the critical infrastructure materials introduction into commerce would  
create a reasonable expectation of profit.
- 345 [~~(8)~~] (9) "Contiguous land" means surface or subsurface land that shares a common boundary and is not  
separated by a highway as defined in Section 41-6a-102.
- 347 [~~(9)~~] (10) "Critical infrastructure materials" means sand, gravel, or rock aggregate.
- 348 [~~(10)~~] (11) "Critical infrastructure materials operations" means the extraction, excavation, processing,  
or reprocessing of critical infrastructure materials.
- 350 [~~(11)~~] (12) "Critical infrastructure materials operator" means a natural person, corporation, association,  
partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other  
organization or representative, either public or private, including a successor, assign, affiliate,  
subsidiary, and related parent company, that:
- 354 (a) owns, controls, or manages a critical infrastructure materials operation; and
- 355 (b) has produced commercial quantities of critical infrastructure materials from the critical  
infrastructure materials operations.

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- 357 ~~[(12)]~~ (13) "Critical infrastructure materials protection area" means a geographic area created under  
the authority of this chapter on or after May 14, 2019, that is granted the specific legal protections  
contained in this chapter.
- 360 ~~[(13)]~~ (14) "Critical infrastructure materials use" means the extraction, excavation, processing, or  
reprocessing of critical infrastructure materials.
- 362 ~~[(14)]~~ (15) "Crops, livestock, and livestock products" includes:
- 363 (a) land devoted to the raising of useful plants and animals with a reasonable expectation of profit,  
including:
- 365 (i) forages and sod crops;
- 366 (ii) grains and feed crops;
- 367 (iii) livestock, as that term is defined in Section 59-2-102;
- 368 (iv) trees and fruits; or
- 369 (v) vegetables, nursery, floral, and ornamental stock; or
- 370 (b) land devoted to and meeting the requirements and qualifications for payments or other  
compensation under a crop-land retirement program with an agency of the state or federal  
government.
- 373 ~~[(15)]~~ (16) "Division" means the Division of Oil, Gas, and Mining created in Section 40-6-15.
- 374 ~~[(16)]~~ (17) "Existing legal use" means a critical infrastructure materials use that has operated in  
accordance with:
- 376 (a) a legal nonconforming use that has not been abandoned for more than 24 consecutive months; or
- 378 (b) a permit issued by the applicable political subdivision.
- 379 ~~[(17)]~~ (18) "Industrial protection area" means a geographic area created under the authority of this  
chapter that is granted the specific legal protections contained in this chapter.
- 381 ~~[(18)]~~ (19) "Mine operator" means a natural person, corporation, association, partnership, receiver,  
trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative,  
either public or private, including a successor, assign, affiliate, subsidiary, and related parent  
company, that, before January 1, 2019:
- 385 (a) owns, controls, or manages a mining use under a large mine permit issued by the division or the  
board; and
- 387 (b) has produced commercial quantities of a mineral deposit from the mining use.
- 388 ~~[(19)]~~ (20) "Mineral deposit" means the same as that term is defined in Section 40-8-4.

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- 389 [~~(20)~~] (21) "Mining protection area" means land where a vested mining use occurs, including each  
surface or subsurface land or mineral estate that a mine operator with a vested mining use owns or  
controls on January 1, 2026.
- 392 [~~(21)~~] (22) "Mining use":
- 393 (a) means:
- 394 (i) the full range of activities, from prospecting and exploration to reclamation and closure, associated  
with the exploitation of a mineral deposit; and
- 396 (ii) the use of the surface and subsurface and groundwater and surface water of an area in connection  
with the activities described in Subsection [~~(21)(a)(i)~~] (22)(a)(i) that have been, are being, or will be  
conducted; and
- 399 (b) includes, whether conducted on-site or off-site:
- 400 (i) any sampling, staking, surveying, exploration, or development activity;
- 401 (ii) any drilling, blasting, excavating, or tunneling;
- 402 (iii) the removal, transport, treatment, deposition, and reclamation of overburden, development rock,  
tailings, and other waste material;
- 404 (iv) any removal, transportation, extraction, beneficiation, or processing of ore;
- 405 (v) any smelting, refining, autoclaving, or other primary or secondary processing operation;
- 407 (vi) the recovery of any mineral left in residue from a previous extraction or processing operation;
- 409 (vii) a mining activity that is identified in a work plan or permitting document;
- 410 (viii) the use, operation, maintenance, repair, replacement, or alteration of a building, structure, facility,  
equipment, machine, tool, or other material or property that results from or is used in a surface or  
subsurface mining operation or activity;
- 413 (ix) any accessory, incidental, or ancillary activity or use, both active and passive, including a utility,  
private way or road, pipeline, land excavation, working, embankment, pond, gravel excavation,  
mining waste, conveyor, power line, trackage, storage, reserve, passive use area, buffer zone, and  
power production facility;
- 418 (x) the construction of a storage, factory, processing, or maintenance facility; and
- 419 (xi) an activity described in Subsection 40-8-4(19)(a).
- 420 [~~(22)~~] (23)
- (a) "Municipal" means of or relating to a city or town.
- 421 (b) "Municipality" means a city or town.

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- 422 [~~(23)~~] (24) "New land" means surface or subsurface land or mineral estate that a mine operator gains  
ownership or control of, whether that land or mineral estate is included in the mine operator's large  
mine permit.
- 425 [~~(24)~~] (25) "Off-site" means the same as that term is defined in Section 40-8-4.
- 426 [~~(25)~~] (26) "On-site" means the same as that term is defined in Section 40-8-4.
- 427 [~~(26)~~] (27)
- (a) "Open land" means land that is:
- 428 (i) preserved in or restored to a predominantly natural, open, and undeveloped condition; and
- 430 (ii) used for:
- 431 (A) wildlife habitat;
- 432 (B) cultural or recreational use;
- 433 (C) watershed protection; or
- 434 (D) another use consistent with the preservation of the land in, or restoration of the land to, a  
predominantly natural, open, and undeveloped condition.
- 436 (b) "Open land" includes land described in Subsection [~~(26)(a)~~] (27)(a) that contains facilities, including  
trails, waterways, and grassy areas, that, in the judgment of the county legislative body:
- 439 (i) enhance the natural, scenic, or aesthetic qualities of the land; or
- 440 (ii) facilitate the public's access to, or use of, the land for the enjoyment of the land's natural, scenic, or  
aesthetic qualities and for compatible recreational activities.
- 442 (c) "Open land" does not include land whose predominant use is as a developed facility for active  
recreational activities played on fields or courses, including baseball, tennis, soccer, golf, or other  
sporting or similar activities.
- 445 [~~(27)~~] (28) "Planning commission" means:
- 446 (a) a countywide planning commission if the land proposed to be included in the agriculture protection  
area, industrial protection area, or critical infrastructure materials protection area is within the  
unincorporated part of the county and not within a planning advisory area;
- 450 (b) a planning advisory area planning commission if the land proposed to be included in the agriculture  
protection area, industrial protection area, or critical infrastructure materials protection area is within  
a planning advisory area; or

453

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(c) a planning commission of a city or town if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within a city or town.

456 [(28)] (29) "Political subdivision" means a county, city, town, school district, special district, or special service district.

458 [(29)] (30) "Proposal sponsors" means the owners of land in agricultural production, industrial use, or critical infrastructure materials operations who are sponsoring the proposal for creating an agriculture protection area, industrial protection area, or critical infrastructure materials protection area.

462 [(30)] (31) "Public land county" means a county in which over 50% of the land area is publicly owned.

464 [(31)] (32) "Rollback tax funds" means the rollback taxes or in lieu fee payments paid to a county in accordance with Sections 59-2-506, 59-2-511, 59-2-1705, and 59-2-1710.

466 [(32)] (33) "State agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

469 [(33)] (34) "Unincorporated" means not within a city or town.

470 [(34)] (35) "Vested critical infrastructure materials use" means a critical infrastructure materials operations use by a critical infrastructure materials operator that is an existing legal use.

473 [(35)] (36) "Vested mining use" means a mining use:

474 (a) by a mine operator; and

475 (b) that existed or was conducted or otherwise engaged in before a political subdivision prohibits, restricts, or otherwise limits a mining use.

476 Section 10. Section **17-81-304** is amended to read:

477 **17-81-304. Public nuisance ordinances.**

479 (1) A political subdivision shall ensure that any of the political subdivision's laws or ordinances that define or prohibit a public nuisance exclude from the definition or prohibition:

482 (a) for an agriculture protection area, any agricultural activity or operation within an agriculture protection area conducted using sound agricultural practices unless that activity or operation bears a direct relationship to public health or safety;

485

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- (b) for an industrial protection area, any industrial use of the land within the industrial protection area that is consistent with sound practices applicable to the industrial use, unless that use bears a direct relationship to public health or safety; or
- 488 (c) for a critical infrastructure materials protection area, any critical infrastructure materials operations on the land within the critical infrastructure materials protection area that is consistent with sound practices applicable to the critical infrastructure materials operations, unless that use bears a direct relationship to public health or safety.
- 493 (2)
- (a) For an agricultural protection area, an ordinance of a political subdivision does not apply to an agricultural operation that is conducted in the normal and ordinary course of an agricultural operation or conducted in accordance with sound agricultural practices if that ordinance:
- 497 (i) would make the agricultural operation, or appurtenances to the agricultural operation, a public nuisance; or
- 499 (ii) provides for abatement of the agricultural operation as a public nuisance.
- 500 (b) An agricultural operation undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, is presumed to be operating within sound agricultural practices.
- 503 [~~(2) In a civil action for nuisance or a criminal action for public nuisance under Section 76-9-1301, it is a complete defense if the action involves agricultural activities and:~~]
- 505 [~~(a) those agricultural activities were:~~]
- 506 [~~(i) conducted within an agriculture protection area; and~~]
- 507 [~~(ii) not in violation of any federal, state, or local law or regulation relating to the alleged nuisance or were conducted according to sound agricultural practices; or~~]
- 509 [~~(b) a defense under Section 4-44-201 applies.~~]
- 510 (3)
- (a) A vested mining use undertaken in conformity with applicable federal and state law and regulations is presumed to be operating within sound mining practices.
- 512 (b) A vested mining use that is consistent with sound mining practices:
- 513 (i) is presumed to be reasonable; and
- 514 (ii) may not constitute a [~~private or public nuisance~~] private nuisance or public nuisance under Title 78B, Chapter 6a, Civil Actions for Nuisance, or a public nuisance under Section 76-9-1301.

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517 (c) A vested mining use in operation for more than three years may not be considered to have become  
a private or public nuisance because of a subsequent change in the condition of land within the  
vicinity of the vested mining use.

520 (4) The county recorder shall, from time to time, ensure compliance with Section 17-79-716 in regard to  
subdivision development near a protection area.

521 Section 11. Section **23A-13-303** is amended to read:

522 **23A-13-303. County public nuisance laws.**

524 (1)

(a) A county shall exclude the activities described in Subsection (1)(b) from the definition of public  
nuisance in a county law or ordinance regulating a public nuisance.

527 (b) An activity or occurrence normally associated with a migratory bird production area is not a  
nuisance, including:

529 (i) hunting;

530 (ii) discharging a firearm;

531 (iii) improving habitat;

532 (iv) trapping;

533 (v) eradicating weeds;

534 (vi) discing;

535 (vii) planting;

536 (viii) impounding water;

537 (ix) raising a bird or other domestic animal;

538 (x) grazing;

539 (xi) an activity conducted in the normal course of an agricultural operation as defined in Section  
[4-44-102] 78B-6a-101; and

541 (xii) an odor.

542 [~~(2) In a civil action for nuisance or a criminal action for public nuisance under Section 76-9-1301, it is  
a complete defense if the action is:]~~

544 [~~(a) normally associated with a migratory bird production area;~~]

545 [~~(b) conducted within a migratory bird production area; and]~~

546 [~~(c) not in violation of federal or state law.]~~

547

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[(3)] (2) An owner of a new development located in whole or in part within 1,000 feet of a migratory bird production area shall provide the following notice on a plat filed with the county recorder:

"Migratory Bird Production Area

This property is located in the vicinity of an established migratory bird production area in which hunting and activities related to the management and operation of land for the benefit of migratory birds have been afforded the highest priority use status. It can be anticipated that these uses and activities may now or in the future be conducted on land within the migratory bird production area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from activities normally associated with a migratory bird production area."

Section 12. Section **40-11-13** is amended to read:

### **40-11-13. Reservoir integrity.**

(1) Carbon dioxide injected into and stored in a reservoir in compliance with the requirements of this section is not:

(a) pollution, as that term is defined in Section 4-18-103; or

(b) a private nuisance or a public nuisance, as defined in Section 78B-6a-101.

~~[(b) a nuisance, as that term is defined in Section 4-44-102.]~~

(2) A reservoir is only appropriate for geologic carbon storage if the board determines and the operator demonstrates that:

(a) carbon dioxide cannot escape the reservoir at a rate exceeding the lower of 1% or the standard recommended by the Environmental Protection Agency;

(b) no additional substances will be introduced into the storage facility that could compromise the integrity of the storage reservoir; and

(c) the operator has a plan to maintain the integrity of the reservoir.

(3) When making a determination described in Subsection (2), the board may rely upon:

(a) a finding from the Utah Geological Survey, created in Section 79-3-201 that the reservoir is appropriate for the storage of carbon dioxide; and

(b) reports and findings from the Department of Environmental Quality, created in Section 19-1-104.

(4) The board shall take action to enforce the provisions of this section.

Section 13. Section **53-5a-701** is renumbered and amended to read:

### **Part 7. Shooting Ranges**

## HB0591S02 compared with HB0591S03

580 ~~[47-3-102]~~ **53-5a-701. Definitions.**

As used in this ~~chapter~~ part:

- 583 (1) "Air gun" means a .177 or .20 caliber, or equivalent 4.5mm or 5.0mm, pellet rifle or pellet pistol  
whose projectile is pneumatically propelled by compressed air or compressed gas such as carbon  
dioxide.
- 586 (2) "Certified official" means a ~~[Range Safety Officer, Firearms Instructor, or Shooting Coach]~~ range  
safety officer, firearms instructor, or shooting coach certified by the National Rifle Association or  
equivalent national shooting organization.
- 589 (3) "Group" means any organized club, organization, corporation, or association which at the time of  
use of the shooting range has a certified official in charge while shooting is taking place and while  
the range is open.
- 592 (4) "Military range" means a shooting range located on a state military installation.
- 593 (5) "Nonmilitary range" means a shooting range that is not a military range.
- 594 (6) "Political subdivision" has the same meaning as defined in Section 17B-1-102 and includes a school  
district.
- 596 (7) "Public funds" means funds provided by the federal government, the state, or a political subdivision  
of the state.
- 598 (8) "Shooting range" or "range" means an area designed and continuously operated under nationally  
recognized standards and operating practices for the use of rifles, shotguns, pistols, silhouettes,  
skeet, trap, black powder, archery, or any other similar shooting activities.

601 Section 14. Section **53-5a-702** is renumbered and amended to read:

603 ~~[47-3-201]~~ **53-5a-702. Assumption of risk.**

- 605 (1) A person who participates in shooting at a shooting range or a public shooting range accepts the  
associated risks to the extent the risks are obvious and inherent. ~~[Those risks]~~
- 608 (2) The risks described in Subsection (1) include injuries that may result from noise, discharge of  
projectile or shot, malfunction of shooting equipment not owned by the shooting range or public  
shooting range, natural variations in terrain, surface or subsurface snow or ice conditions, bare spots,  
rocks, trees, and other forms of natural growth or debris.

612 Section 15. Section **53-5a-703** is renumbered and amended to read:

614 ~~[47-3-202]~~ **53-5a-703. Shooting range as a public nuisance -- Notice for new subdivision  
development.**

## HB0591S02 compared with HB0591S03

- 617 (1) A state agency or political subdivision shall ensure that any of [its] the state agency's or political  
623 subdivision's rules or ordinances that define or prohibit a public nuisance exclude from the  
definition or prohibition any shooting range or public shooting range that was established,  
constructed, or operated [~~prior to~~] before the implementation of the rule or ordinance regarding  
public nuisance unless that activity or operation substantially and adversely affects public health or  
safety.
- 626 [(2) A person who operates or uses a shooting range or a public shooting range in this state is not  
subject to civil liability or criminal prosecution for noise or noise pollution resulting from the  
operation or use of the range if:]
- 627 [(a) the range:]
- 627 [(i) was established, constructed, or operated prior to the implementation of any noise ordinances, rules,  
or regulations; and]
- 629 [(ii) does not substantially and adversely affect public health or safety; or]
- 630 [(b) the range:]
- 631 [(i) is in compliance with any noise control laws, ordinances, rules, or regulations that applied to the  
range or public shooting range and its operation at the time of establishment, construction, or initial  
operation of the range; and]
- 634 [(ii) does not substantially and adversely affect public health or safety.]
- 635 [(3) For purposes of this section, noise generated by a shooting range or public shooting range that is  
operated in accordance with nationally recognized standards and operating practices is not a public  
health nuisance.]
- 638 [(4)] (2) For any new subdivision development located in whole or in part within 1,000 feet of the  
boundary of any shooting range or public shooting range that was established, constructed, or  
operated [~~prior to~~] before the development of the subdivision, the owner of the development shall  
provide on any plat filed with the county recorder the following notice:
- 643 "Shooting Range Area
- 644 This property is located in the vicinity of an established shooting range or public shooting  
range. It can be anticipated that customary uses and activities at this shooting range or public  
shooting range will be conducted now and in the future. The use and enjoyment of this property is  
expressly conditioned on acceptance of any annoyance or inconvenience that may result from these  
uses and activities."

## HB0591S02 compared with HB0591S03

648 Section 16. Section **53-5a-704** is renumbered and amended to read:

650 ~~[47-3-301]~~ **53-5a-704. Access to publicly funded ranges.**

A shooting range, whether indoor or outdoor, constructed with public funds and operated or controlled by the state, an institution of higher education, or a political subdivision, shall, unless specifically exempted in Section ~~[47-3-305]~~ **53-5a-708**, be made available as provided in this section for use by any group.

655 Section 17. Section **53-5a-705** is renumbered and amended to read:

657 ~~[47-3-302]~~ **53-5a-705. Use and availability.**

- 659 (1) Use of a shooting range by a group may not interfere with the use of the range by the state agency, military, institution of higher education, or political subdivision for whom the range was constructed.
- 662 (2) Outdoor shooting ranges shall be available on weekends and holidays, provided they are not being used for shooting and training purposes by the owner or operator of the range.
- 664 (3)
- (a) Each group that uses a shooting range owned or operated by a state agency, institution of higher education, or political subdivision shall provide a certified official to oversee their shooting activities while on the range.
- 667 (b) If the group does not have a certified official that is currently available, the owner or operator of the shooting range may provide one and charge a fee for that certified official's time.
- 670 (4) A group using a public shooting range may not have anyone with the group who is prohibited from possessing a firearm.
- 672 (5) Each group shall provide documentation of current and applicable liability insurance or waivers of liability to cover each state agency, institution of higher education, or a political subdivision, for each person shooting on or controlling the shooting range.
- 675 (6) Shooting range operations shall be in accordance with safety standards adopted by the National Rifle Association or equivalent national shooting organization.
- 677 (7) Staff from the owner or operator of the shooting range is not required to be present unless there is no certified official present with the group.
- 679 (8) The certified official in charge at the applicable time shall be responsible for opening and securely closing the shooting range.

680 Section 18. Section **53-5a-706** is renumbered and amended to read:

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682 ~~[47-3-303]~~ **53-5a-706. Rulemaking.**

- 684 (1) The State Armory Board, any state agency, or institution of higher education that operates or  
has control of a shooting range shall make rules in accordance with Title 63G, Chapter 3, Utah  
Administrative Rulemaking Act, to implement procedures for use of the range by the public.
- 688 (2) The rules shall include provisions requiring indoor shooting ranges to be available on a reservation  
basis, for firearms not exceeding the range design criteria:
- 690 (a) at least twice per week;
- 691 (b) after 4 p.m. on work or school days, or after students and faculty are excused or dismissed on the  
work or school day; and
- 693 (c) between 8 a.m. and 10 p.m. on weekends.

693 Section 19. Section **53-5a-707** is renumbered and amended to read:

695 ~~[47-3-304]~~ **53-5a-707. Fees.**

- 697 (1) Reasonable fees for the use of a shooting range to cover the incidental material and supply costs  
incurred by making the range available to a group, may be established by:
- 699 (a) the State Armory Board established under Title 39A, Chapter 2, State Armory Board, for a military  
range; and
- 701 (b) for a nonmilitary range, the state agency, institution of higher education, or political subdivision that  
operates or has control of the range.
- 703 (2) Fees for nonmilitary shooting range use may not exceed fees charged by the Department of Natural  
Resources for the same or similar activity.
- 705 (3) Fees collected under Subsection (1) shall be:
- 706 (a) for a shooting range operated or controlled by a state agency or an institution of higher education,  
deposited ~~[in]~~ into the General Fund as dedicated credits to be used for the operation and  
maintenance of the range; and
- 709 (b) for a shooting range operated or controlled by a political subdivision, deposited in the political  
subdivision's general fund.

710 Section 20. Section **53-5a-708** is renumbered and amended to read:

712 ~~[47-3-305]~~ **53-5a-708. Exceptions and prohibitions.**

- 714 (1) ~~[This part does]~~ Sections 53-5a-704 through 53-5a-707 do not apply to:
- 715 (a) shooting ranges that are otherwise open to the public;

716

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- (b) shooting ranges that are operated as a public shooting range staffed by and operated by Division of Wildlife Resources;
- 718 (c) the Utah National Guard ranges located at Camp Williams and the Salt Lake International Airport;
- 720 (d) Department of Corrections ranges; and
- 721 (e) ranges owned, operated, or currently leased as of March 26, 2013, by a state or local public safety agency.
- 723 (2)
- (a) Firearms may not be allowed in a school building, except under the provision of Section 76-11-205 or 76-11-205.5, unless there is an outdoor entrance to the shooting range and the most direct access to the range is used.
- 726 (b) An outdoor entrance to a shooting range may not be blocked by fences, structures, or gates for the purpose of blocking the outdoor entrance.
- 728 (3)
- (a) Only air guns may be used in public ranges where the ventilation systems do not meet current OSHA standards as applied to the duration of exposure of the participants.
- 731 (b) For the purposes of this part, an air gun does not include larger caliber pneumatic weapons, paintball guns, or air shotguns.
- 733 (4) Group range use is a lawful, approved activity under Subsection 76-11-205(4)(f) or 76-11-205.5(4) (g).
- 735 ~~{Section 21. Section 63I-1-278 is amended to read: }~~
- 736 **63I-1-278. Repeal dates: Title 78A and Title 78B.**
- 737 (1) Subsection 78A-7-106(7), regarding the transfer of a criminal action involving a domestic violence offense from the justice court to the district court, is repealed July 1, 2029.
- 740 (2) Section 78B-3-421, Arbitration agreements, is repealed July 1, 2029.
- 741 (3) Section 78B-4-518, Limitation on liability of employer for an employee convicted of an offense, is repealed July 1, 2029.
- 743 (4) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.
- 745 (5) Subsections 78B-6a-102(2) and (3), regarding a common law right of action for a public nuisance or private nuisance by the attorney general, is repealed on January 1, 2035.
- 747 [(5)] (6) Section 78B-22-805, Interdisciplinary Parental Representation Pilot Program, is repealed December 31, 2026.

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734 Section 21. Section **72-6-112.5** is amended to read:

735 **72-6-112.5. Definitions -- Nighttime highway construction noise -- Exemptions -- Permits.**

752 (1) As used in this section:

753 (a) "Commuter rail" means the same as that term is defined in Section 63N-3-602.

754 (b)

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

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

756 (B) within 800 feet of a transportation facility that is within a commercial or industrialized area.

758 (ii) "Front row receptor" includes a residence that is contiguous to a property immediately adjacent to a transportation facility in a residential area.

760 (c) "Nighttime construction" means highway or public transit facility construction occurring between the hours of 10:00 p.m. and 7:00 a.m.

762 [~~(d) "Nuisance" means the same as that term is defined in Section 78B-6-1101.]~~

763 [(~~e~~)] (d)

(i) "Permitted activities" means activities occurring between the hours of 7:00 p.m. and 7:00 a.m. that are related to and necessary for nighttime construction, whether occurring at the construction site or at a gravel pit or other site for production of raw materials, and includes:

767 (A) loading and unloading of trucks;

768 (B) asphalt mixing and hauling; and

769 (C) concrete mixing and hauling.

770 (ii) "Permitted activities" does not include:

771 (A) blasting; or

772 (B) crushing.

773 (e) "Private nuisance" means the same as that term is defined in Section 78B-6a-101.

774 (2) The following projects are exempt from any noise ordinance, regulation, or standard of a local jurisdictional authority:

776 (a) a state highway construction project conducted on a road where the normal posted speed limit is 55 miles per hour or greater; or

778 (b) a commuter rail construction project.

779

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- (3) Except for a project described in Subsection (2), a state highway or a public transit facility construction project is exempt from any noise ordinance, regulation, or standard of a local jurisdictional authority if the department:
- 782 (a) provides reasonable written notice at least 48 hours in advance of any required nighttime  
construction to each residential dwelling located within front row receptors of the activity;
- 785 (b) determines a net community, including traveler community, benefit exists to conduct nighttime  
highway construction after considering the following:
- 787 (i) public health;
- 788 (ii) project completion time;
- 789 (iii) air quality;
- 790 (iv) traffic;
- 791 (v) economics;
- 792 (vi) safety; and
- 793 (vii) local jurisdiction concerns; and
- 794 (c) institutes best management noise reduction practices, as determined by the department, for front row  
receptors, in consultation with local government or the local jurisdictional authority for all nighttime  
construction, which may include:
- 797 (i) equipment maintenance;
- 798 (ii) noise shielding;
- 799 (iii) scheduling the most noise intrusive activities during the day; and
- 800 (iv) other noise mitigation methods.
- 801 (4)
- (a) Subject to Subsection (2) or (3), a state highway project or public transit facility construction  
shall secure required noise permits from the local jurisdictional authority to conduct nighttime  
construction.
- 804 (b) To the extent practical, the department shall coordinate with the local jurisdictional authority during  
the pre-construction phase of a project to address noise exemption conditions.
- 807 (5) A local jurisdictional authority shall issue a nighttime construction permit limited to permitted  
activities if:
- 809

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- (a) the applicant provides evidence that the permitted activities are directly related to and necessary for a nighttime construction project for which the department has obtained a noise permit from a local jurisdictional authority [~~pursuant to~~] in accordance with Subsection (4); and
- 813 (b) the local jurisdictional authority determines that any private nuisance that may be caused by the  
nighttime construction may be reasonably mitigated.
- 815 (6) A local jurisdictional authority shall issue a nighttime construction noise permit without additional  
requirements to the department at the request of the department or the department's designated  
project agent if the requirements of Subsection (2) or (3) are met.
- 819 (7)
- (a) A local jurisdictional authority may request adjustments to a nighttime construction permit to  
mitigate unreasonable noise disturbances caused by nighttime construction or permitted activities.
- 822 (b) If adjustments are requested as described in Subsection (7)(a), the nighttime construction permit  
holder shall use best management noise reduction practices to mitigate unreasonable noise  
disturbances.
- 825 (8)
- (a) For the exemption provided in Subsection (3) and in accordance with Title 63G, Chapter 3, Utah  
Administrative Rulemaking Act, the department shall make rules establishing procedures:
- 828 (i) for a local jurisdictional authority or local government to appeal the decision of the department  
to conduct nighttime construction; and
- 830 (ii) for the local jurisdictional authority to request that the department enforce the terms of a noise  
permit.
- 832 (b) After review and upon receiving a written notice from a local jurisdictional authority that the  
conditions for the noise exemption permit are not met, the department shall take corrective action to  
ensure nighttime construction activities meet requirements of the local permit.
- 821 Section 22. Section **76-5c-103** is amended to read:
- 822 **76-5c-103. Relation to other state and local laws.**
- 838 (1)
- (a) A county, city, or other political subdivision has the right to regulate pornographic materials  
or materials harmful to minors as this chapter does not proscribe or limit the regulation of  
pornographic materials or materials harmful to minors by a county, city, or other political  
subdivision.

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- 842 (b) Without limitation, a political subdivision may further regulate pornographic materials or materials  
harmful to minors by ordinances relating to:
- 844 (i) zoning;
- 845 (ii) licensing;
- 846 (iii) public nuisances;
- 847 (iv) a specific type of business such as adult bookstores or drive-in movies; or
- 848 (v) use of blinder racks.
- 849 (2) This chapter does not preclude the application of other laws of this state to pornographic materials  
or materials harmful to minors and, without limitation, this chapter is not in derogation of  
Subsection 76-9-1301(2) and Section ~~[76-9-1306]~~ 78B-6a-204.
- 852 (3)
- (a) The commission of a crime under this chapter offends public decency under Subsection  
76-9-1301(2).
- 854 (b) It is the intent of this chapter to give the broadest meaning permissible under the United States  
Constitution and the Utah Constitution to the words "offends public decency" in Subsection  
76-9-1301(2).
- 842 Section 23. Section **76-9-1301** is amended to read:
- 843 **76-9-1301. Definitions.**
- As used in this part:
- 860 (1) "Agricultural operation" means the same as that term is defined in Section 78B-6a-101.
- 861 (2) "Agricultural protection area" means the same as that term is defined in Section 17-18-101.
- 863 ~~[(4)]~~ (3) "Controlled substance" means the same as that term is defined in Section 58-37-2.
- 864 (4) "Critical infrastructure materials operation" means the same as the term "critical infrastructure  
materials use" is defined in Section 10-20-701.
- 866 (5) "Manufacturing facility" means the same as that term is defined in Section 78B-6a-101.
- 867 (6) "Migratory bird production area" means the same as that term is defined in Section 23A-13-101.
- 869 ~~[(2)]~~ (7) "Nuisance" means an item, thing, manner, or condition that:
- 870 (a) is dangerous to human life or health; or
- 871 (b) renders soil, air, water, or food impure or unwholesome.
- 872 ~~[(3)]~~ (8)

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- (a) "Public nuisance" means unlawfully committing an act or omitting to perform a duty~~[, which]~~ and the act or duty:
- 874 (i) annoys, injures, or endangers the comfort, repose, health, or safety of three or more persons, regardless of the extent to which the annoyance, injury, or endangerment inflicted on the persons is unequal;
- 877 (ii) offends public decency;
- 878 (iii) unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, a lake, stream, canal, or basin, or a public park, square, street, or highway;
- 881 (iv) is a ~~[nuisance as described in Section 78B-6-1107, Nuisance -- Drug houses and drug dealing -- Gambling -- Group criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction]~~ private nuisance as defined in Section 78B-6a-101; or
- 885 (v) renders three or more persons insecure in life or the use of property, regardless of the extent to which the effect inflicted on the persons is unequal.
- 887 (b) "Public nuisance" ~~[is presumed to]~~ does not include:
- 888 (i) ~~[activities]~~ an activity conducted in the normal and ordinary course of ~~[agricultural operations, as defined in Section 4-44-102,]~~ an agricultural operation and conducted in accordance with sound agricultural practices, with the presumption that ~~[agricultural operations]~~ an agricultural operation undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, ~~[are]~~ is operating within sound agricultural practices; ~~[or]~~
- 894 (ii) ~~[activities]~~ an activity conducted in the normal and ordinary course of ~~[critical infrastructure materials operations, as defined in Section 78B-6-1101,]~~ a critical infrastructure materials operation and conducted in accordance with sound critical infrastructure materials practices, with the presumption that a critical infrastructure materials ~~[operations]~~ operation undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, ~~[are]~~ is operating within sound critical infrastructure materials ~~[operations.]~~ practices;
- 901 (iii) an activity normally associated with a migratory bird production area, that is conducted within a migratory bird production area, and is not in violation of state or federal law;
- 904 (iv) an activity at a manufacturing facility if the manufacturing facility has a defense against a civil action for the activity under Section 78B-6a-402;
- 906 (v) noise or noise pollution resulting from the operation or use of a shooting range if the shooting range:
- 908 (A)

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- (I) was established, constructed, or operated before the implementation of any noise ordinances, rules, or regulations; and
- 910 (II) does not substantially and adversely affect public health or safety; or
- 911 (B)
- (I) is in compliance with any noise control laws, ordinances, rules, or regulations that applied to the shooting range and the shooting range's operation at the time of establishment, construction, or initial operation of the range; and
- 915 (II) does not substantially and adversely affect public health or safety; or
- 916 (vi) noise generated by a shooting range that is operated in accordance with nationally recognized standards and operating practices.
- 918 (9) "Shooting range" means the same as that term is defined in Section 53-5a-701.
- 919 [~~(4)~~] (10)
- (a) "Supervised drug consumption site" means a facility or premises operated or intended to provide an environment for the unlawful use of a controlled substance.
- 921 (b) "Supervised drug consumption site" does not include a facility or premises that provides or facilitates:
- 923 (i) an opioid treatment program, as that term is defined in Section 58-17b-309.7; or
- 924 (ii) the use of medication pursuant to a medication assisted treatment plan, as that term is defined in Section 64-13-25.1.
- 911 Section 24. Section **78B-6-802** is amended to read:
- 912 **78B-6-802. Unlawful detainer by tenant for a term less than life.**
- 928 (1) A tenant holding real property for a term less than life is guilty of an unlawful detainer if the tenant:
- 930 (a) continues in possession, in person or by subtenant, of the property or any part of the property, after the expiration of the specified term or period for which it is let to the tenant, which specified term or period, whether established by express or implied contract, or whether written or parol, shall be terminated without notice at the expiration of the specified term or period;
- 935 (b) having leased real property for an indefinite time with monthly or other periodic rent reserved:
- 937 (i) continues in possession of the property in person or by subtenant after the end of any month or period, in cases where the owner, the owner's designated agent, or any successor in estate of the owner, 15 calendar days or more before the end of that month or period, has served notice requiring the tenant to quit the premises at the expiration of that month or period; or

## HB0591S02 compared with HB0591S03

- 942 (ii) in cases of tenancies at will, remains in possession of the premises after the expiration of a notice of  
not less than five calendar days;
- 944 (c) continues in possession, in person or by subtenant, after default in the payment of any rent or other  
amounts due and after a notice in writing requiring in the alternative the payment of the rent and  
other amounts due or the surrender of the detained premises, has remained uncomplied with for a  
period of three business days after service, which notice may be served at any time after the rent  
becomes due;
- 949 (d) assigns or sublets the leased premises contrary to the covenants of the lease, or commits or permits  
waste on the premises after service of a three calendar days' notice to quit;
- 952 (e) sets up or carries on any unlawful business on or in the premises after service of a three calendar  
days' notice to quit;
- 954 (f) suffers, permits, or maintains on or about the premises any nuisance, including private nuisance as  
defined in Section 78B-6-1107 after service of a three calendar days' notice to quit;
- 957 (g) commits a criminal act on the premises and remains in possession after service of a three calendar  
days' notice to quit;
- 959 (h) continues in possession, in person or by subtenant, after a neglect or failure to perform any condition  
or covenant of the lease or agreement under which the property is held, other than those previously  
mentioned, and after notice in writing requiring in the alternative the performance of the conditions  
or covenant or the surrender of the property, served upon the tenant and upon any subtenant in  
actual occupation of the premises remains uncomplied with for three calendar days after service; or
- 966 (i)
- (i) is a tenant under a bona fide tenancy as described in Section 702 of the Protecting Tenants at  
Foreclosure Act; and
- 968 (ii) continues in possession after the effective date of a notice to vacate given in accordance with  
Section 702 of the Protecting Tenants at Foreclosure Act.
- 970 (2) After service of the notice and the time period required for the notice, the tenant, any subtenant  
in actual occupation of the premises, any mortgagee of the term, or other person interested in the  
lease's continuance may perform the condition or covenant and save the lease from forfeiture,  
except that if the covenants and conditions of the lease violated by the lessee cannot afterwards be  
performed, or the violation cannot be brought into compliance, a notice provided for in Subsections  
(1)(d) through (g) may be given.

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- 977 (3) Unlawful detainer by an owner resident of a mobile home is determined under Title 57, Chapter 16,  
Mobile Home Park Residency Act.
- 979 (4) The notice provisions for nuisance in Subsections (1)(d) through (g) do not apply to ~~nuisance~~  
~~actions provided in Sections 78B-6-1107 through 78B-6-1114]~~ an action for abatement by eviction  
of a private nuisance as described in Section 78B-6a-303.
- 982 (5) The notice to vacate requirement under 15 U.S.C. Sec. 9058(c), which is part of the Coronavirus  
Aid, Relief, and Economic Security Act, Pub. L. 116-136:
- 984 (a) applies only to a notice provided to a tenant of a covered dwelling in a covered property as that term  
is defined in 15 U.S.C. Sec. 9058(a);
- 986 (b) applies only to the amount of time before a tenant may be required to vacate a covered property  
through an order of restitution as provided by Section 78B-6-812;
- 988 (c) for a notice provided under Subsection (1)(c), applies only when delinquent rent or other amounts  
have accrued during the 120-day moratorium described in 15 U.S.C. Sec. 9058(b);
- 991 (d) does not require that a tenant be given more than three business days after service to pay rent and  
other amounts due under a notice provided under Subsection (1)(c);
- 993 (e) does not apply to a notice provided under Subsections (1)(d) through (h);
- 994 (f) does not prohibit or nullify the service of any notice described in this section; and
- 995 (g) does not limit the accrual of damages under Section 78B-6-811.
- 996 (6) Service of a notice as provided by 15 U.S.C. Sec. 9058(c) or under Subsection (5) does not nullify  
the service or validity of any other notice provided in accordance with this section.
- 984 Section 25. Section **78B-6-805** is amended to read:
- 985 **78B-6-805. Notice -- How served.**
- 1001 (1) A notice required by this part may be served:
- 1002 (a) by delivering a copy to the tenant personally or, if the tenant is a commercial tenant, by delivering  
a copy to the commercial tenant's usual place of business by leaving a copy of the notice with a  
person of suitable age and discretion;
- 1005 (b) by sending a copy through registered mail, certified mail, or an equivalent means, addressed to the  
tenant at the tenant's residence, leased property, or usual place of business;
- 1008 (c) if the tenant is absent from the residence, leased property, or usual place of business, by leaving a  
copy with a person of suitable age and discretion at the tenant's residence, leased property, or usual  
place of business;

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- 1011 (d) if a person of suitable age or discretion cannot be found at the place of residence, leased property, or  
usual place of business, then by affixing a copy in a conspicuous place on the leased property; or
- 1014 (e) if an order of abatement by eviction of the nuisance is issued by the court as provided in Section  
[78B-6-1109] 78B-6a-303, when issued, the parties present shall be on notice that the abatement by  
eviction order is issued and immediately effective or as to any absent party, notice shall be given as  
provided in Subsections (1)(a) through [(e)] (d).
- 1019 (2) Service upon a subtenant may be made in the same manner as provided in Subsection (1).
- 1005 Section 26. Section **78B-6-806** is amended to read:
- 1006 **78B-6-806. Necessary parties defendant.**
- 1022 (1)
- (a) No person other than the tenant of the premises, a lease signer, and subtenant if there is one in the  
actual occupation of the premises when the action is commenced, may be made a party defendant in  
the proceeding, except as provided in Section [~~78B-6-1111~~] 78B-6a-303.
- 1026 (b) A proceeding may not abate, nor the plaintiff be nonsuited, for the nonjoinder of any person who  
might have been made a party defendant.
- 1028 (c) If it appears that any of the parties served with process or appearing in the proceedings are guilty,  
judgment shall be rendered against those parties.
- 1030 (2)
- (a) If a person has become a subtenant of the premises in controversy after the service of any notice as  
provided in this part, the fact that the notice was not served on the subtenant is not a defense to the  
action.
- 1033 (b) All persons who enter under the tenant after the commencement of the action shall be bound by the  
judgment the same as if they had been made parties to the action.
- 1035 (3) A landlord, owner, or designated agent is a necessary party defendant only in an abatement by  
eviction action for an unlawful drug house [~~as provided in Section 78B-6-1111~~] under Section  
78B-6a-303.
- 1023 Section 27. Section **78B-6-811** is amended to read:
- 1024 **78B-6-811. Judgment for restitution, damages, and rent -- Immediate enforcement --**  
**Remedies.**
- 1041 (1)
- (a) A court may:

## HB0591S02 compared with HB0591S03

- 1042 (i) enter a judgment upon the merits or upon default; and
- 1043 (ii) issue an order of restitution regardless of whether a judgment is entered.
- 1044 (b) A judgment entered in favor of the plaintiff shall include an order for the restitution of the premises as provided in Section 78B-6-812.
- 1046 (c) If the proceeding is for unlawful detainer after neglect or failure to perform any condition or covenant of the lease or agreement under which the property is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of the lease or agreement.
- 1050 (d)
- (i) A forfeiture under Subsection (1)(c) does not release a defendant from any obligation for payments on a lease for the remainder of the lease's term.
- 1052 (ii) Subsection (1)(d)(i) does not change any obligation on either party to mitigate damages.
- 1054 (2) The jury or the court, if the proceeding is tried without a jury or upon the defendant's default, shall also assess the damages resulting to the plaintiff from any of the following:
- 1056 (a) forcible entry;
- 1057 (b) forcible or unlawful detainer;
- 1058 (c) waste of the premises during the defendant's tenancy, if waste is alleged in the complaint and proved at trial;
- 1060 (d) the amounts due under the contract; and
- 1061 (e) the abatement [~~of the nuisance by eviction as provided in Sections 78B-6-1107 through 78B-6-1114~~] by eviction of a private nuisance as described in Section 78B-6a-303.
- 1064 (3) The court shall enter the judgment against the defendant for the rent and for three times the amount of the damages assessed under Subsections (2)(a) through (2)(e).
- 1066 (4)
- (a) If the proceeding is for unlawful detainer, the court shall issue execution upon the judgment immediately after the entry of the judgment.
- 1068 (b) In all cases, the judgment may be issued and enforced immediately.
- 1069 (5) In an action under this chapter, the court:
- 1070 (a) shall award costs and reasonable attorney fees to the prevailing party;
- 1071 (b) may modify a judgment for additional amounts owed if a motion is submitted within 180 days on the earlier of the day on which:
- 1073 (i) the order of restitution is enforced; or

## HB0591S02 compared with HB0591S03

- 1074 (ii) the defendant vacates the premises; and  
1075 (c) may grant a party additional time for a motion under Subsection (5)(b).  
1076 (6)  
(a) If the court issues an order of restitution, the defendant shall provide a current address to the court and the plaintiff within 30 days of the day on which the court issues the order of restitution.  
1079 (b) Failure of a defendant to provide an address under Subsection (6)(a) does not require the plaintiff or the court to bear the burden of seeking out the defendant to provide notice for any subsequent proceeding.

1067 Section 28. Section **78B-6-813** is amended to read:

1068 **78B-6-813. Time for appeal.**

- 1084 (1) Except as provided in Subsection (2), either party may, within 10 days, appeal from the judgment rendered.  
1086 (2) In a ~~[nuisance action under Sections 78B-6-1107 through 78B-6-1114]~~ private nuisance action described in Section 78B-6a-303, any party may appeal from the judgment rendered within three days.

1074 Section 29. Section **78B-6a-101** is renumbered and amended to read:

### 1091 **CHAPTER 6a. Civil Actions for Nuisances**

#### 1092 **Part 1. General Provisions**

1078 ~~[78B-6-1101]~~ **78B-6a-101. Definitions for chapter.**

1094 [(1)] As used in this ~~[part]~~ chapter:

1095 (1)

- (a) "Agricultural operation" means the commercial production of crops, orchards, livestock, poultry, aquaculture, livestock products, or poultry products.  
1097 (b) "Agricultural operation" includes:  
1098 (i) the real property where the commercial production described in Subsection (1)(a) occurs;  
1100 (ii) a facility, a property, or equipment used to facilitate the commercial production described in Subsection (1)(a);  
1102 (iii) an agritourism activity, as defined in Section 78B-4-512; or  
1103 (iv) an agricultural protection area established under Title 17, Chapter 81, Agriculture, Industrial, and Critical Infrastructure Materials.

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- 1105 (2) "Agriculture protection area" means the same as that term is defined in Section 17-81-101.
- 1107 [~~(a)~~] (3) "Controlled substance" means the same as that term is defined in Section 58-37-2.
- 1108 [~~(b)~~] (4) "Critical infrastructure materials operations" means the same as the term "critical infrastructure materials use" is defined in Section 10-20-701.
- 1110 (5) "Drug nuisance" means fumes resulting from the unlawful manufacturing or the unlawful possession or use of a controlled substance that drift into a residential unit a person rents, leases, or owns, from another residential or commercial unit.
- 1113 (6) "Government entity" means:
- 1114 (a) the state, any county, municipality, special district, special service district, or any other political subdivision or administrative unit of the state, including state institutions of education;
- 1117 (b) a federal entity or agency; or
- 1118 (c) a tribal government.
- 1119 (7) "Legal product" means a product for which possession generally, or by the person alleged to be causing the public nuisance, is not specifically prohibited by federal or state law.
- 1122 [~~(e)~~] (8) "Manufacturing facility" means a factory, plant, or other facility including its appurtenances, where the form of raw materials, processed materials, commodities, or other physical objects is converted or otherwise changed into other materials, commodities, or physical objects or where such materials, commodities, or physical objects are combined to form a new material, commodity, or physical object.
- 1127 [~~(d)~~] "Nuisance" means anything that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.]
- 1130 [~~(e)~~] (9)
- [~~(i)~~] "Possession or use" means the joint or individual ownership, control, occupancy, holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection, or consumption, as distinguished from distribution, of a controlled substance, and includes individual, joint, or group possession or use of a controlled substance.
- 1135 [~~(ii)~~] For a person to be a possessor or user of a controlled substance, it is not required that the person be shown to have individually possessed, used, or controlled the substance, but it is sufficient if it is shown that the person jointly participated with one or more persons in the use, possession, or control of a controlled substance with knowledge that the activity was occurring, or the controlled substance

## HB0591S02 compared with HB0591S03

is found in a place or under circumstances indicating that the person had the ability and the intent to exercise dominion and control over it.]

1142 (10)

(a) "Private nuisance" means a condition arising out of the use of real property that:

1143 (i) is injurious to health or safety, or is indecent or offensive to the senses, of an individual on an adjacent or neighboring property; or

1145 (ii) obstructs the free use of an adjacent or neighboring property so as to interfere with the comfortable enjoyment of life or property.

1147 (b) "Private nuisance" includes a condition that is:

1148 (i) gambling as provided in Title 76, Chapter 9, Part 14, Gambling;

1149 (ii) criminal activity committed in concert with two or more individuals as provided in Section 76-3-203.1;

1151 (iii) criminal activity committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;

1153 (iv) criminal activity committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

1155 (v) a party house that frequently creates a condition described in Subsection (10)(a);

1156 (vi) prostitution as provided in Title 76, Chapter 5d, Prostitution;

1157 (vii) an unsafe building or place;

1158 (viii) the unlawful discharge of a firearm as provided in state or local law;

1159 (ix) a drug nuisance; or

1160 (x) a tobacco nuisance.

1161 (c) "Private nuisance" does not include:

1162 (i) a public nuisance;

1163 (ii) an action or condition that is lawful; or

1164 (iii) an action or condition that is authorized, approved, licensed, or mandated by statute, ordinance, regulation, permit, license, order, rule, or other similar measure issued, adopted, promulgated, or approved by a government entity.

1167 (11)

(a) "Public nuisance" means:

1168

## HB0591S02 compared with HB0591S03

- (i) a condition arising out of the use of real property that unlawfully interferes with a public right by endangering community safety, being indecent to the community, or being offensive to the community; or
- 1171 (ii) a condition that unlawfully interferes with the public right to free passage or use, in the customary manner, of a navigable lake, river, bay, stream, canal, or basin or a public park, square, street, road, or highway.
- 1174 (b) "Public nuisance" does not include:
- 1175 (i) an action or condition that is lawful;
- 1176 (ii) an action or condition that is authorized, approved, licensed, or mandated by statute, ordinance, regulation, permit, license, order, rule, or other similar measure issued, adopted, promulgated, or approved by a government entity;
- 1179 (iii) impairment of the spiritual, cultural, or emotional significance associated with a navigable lake, river, bay, stream, canal, or basin or a public park, square, street, road, or highway;
- 1182 (iv) the design, manufacturing, distributing, selling, labeling, or marketing of a legal product;
- 1184 (v) the aggregation of individual injuries or private rights, including a private nuisance; or
- 1186 (vi) the design, manufacturing, distributing, selling, labeling, or marketing of firearms, firearm accessories, or ammunition, as defined in Section 53-5d-102, or components of firearms, firearm accessories, or ammunition.
- 1189 (12) "Residential unit" does not include:
- 1190 (a) a residential rental unit available for temporary rental, such as for a vacation, or available for only 30 or fewer days at a time;
- 1192 (b) a hotel or motel room; or
- 1193 (c) a unit that is part of a timeshare development, as defined in Section 57-19-2, or subject to a timeshare interest as defined in Section 57-19-2.
- 1195 (13) "Shooting range" means the same as that term is defined in Section 53-5a-701.
- 1196 (14) "Tobacco or illegal substance nuisance" means tobacco smoke that drifts into a residential unit a person rents, leases, or owns, from another residential or commercial unit and the smoke:
- 1199 (a) drifts in more than once in each of two or more consecutive seven-day periods; and
- 1200 (b) creates a condition described in Subsection (10)(a).
- 1201 (15)

## HB0591S02 compared with HB0591S03

- (a) "Unlawfully interferes" means a condition that violates a statute, ordinance, regulation, permit, license, order, rule, or other similar measure issued, adopted, promulgated, or approved by a government entity.
- 1204 (b) "Unlawfully interferes" includes any statute, ordinance, regulation, permit, license, order, rule, or other similar measure issued, adopted, promulgated, or approved by a government entity before, on, or after May 6, 2026.
- 1207 (16) "Unsafe building or place" means a building or place where:
- 1208 (a) the unlawful sale, manufacture, service, storage, distribution, dispensing, acquisition, or use occurs of any controlled substance, precursor, or analog described in Title 58, Chapter 37, Utah Controlled Substances Act;
- 1211 (b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title 76, Chapter 9, Part 14, Gambling, which creates a condition described in Subsection (10)(a);
- 1214 (c) criminal activity is committed in concert with two or more individuals as described in Section 76-3-203.1;
- 1216 (d) criminal activity is committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;
- 1218 (e) criminal activity is committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;
- 1220 (f) parties occur frequently that creates a condition described in Subsection (10)(a);
- 1221 (g) prostitution or promotion of prostitution is regularly carried on by one or more persons as described in Title 76, Chapter 5d, Prostitution;
- 1223 (h) a violation of an offense under Title 76, Chapter 11, Weapons, occurs on the premises;
- 1225 (i) the unlawful discharge of a firearm, as provided in state or local law, occurs on the premises; or
- 1227 (j) human trafficking occurs as described in Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling.
- 1229 [~~(2) A nuisance may be the subject of an action.~~]
- 1230 [~~(3) A nuisance may include the following:~~]
- 1231 [~~(a) drug houses and drug dealing as provided in Section 78B-6-1107;~~]
- 1232 [~~(b) gambling as provided in Title 76, Chapter 9, Part 14, Gambling;~~]
- 1233 [~~(e) criminal activity committed in concert with two or more individuals as provided in Section 76-3-203.1;~~]

## HB0591S02 compared with HB0591S03

- 1235 [~~(d) criminal activity committed for the benefit of, at the direction of, or in association with any  
criminal street gang as defined in Section 76-9-802;~~]
- 1237 [~~(e) criminal activity committed to gain recognition, acceptance, membership, or increased status with a  
criminal street gang as defined in Section 76-9-802;~~]
- 1239 [~~(f) party houses that frequently create conditions defined in Subsection (1)(d);~~]
- 1240 [~~(g) prostitution as provided in Title 76, Chapter 5d, Prostitution; or~~]
- 1241 [~~(h) the unlawful discharge of a firearm as provided in state or local law.~~]
- 1242 [~~(4) A nuisance under this part includes:-~~]
- 1243 [~~(a) tobacco smoke that drifts into a residential unit a person rents, leases, or owns, from another  
residential or commercial unit and the smoke;~~]
- 1245 [~~(i) drifts in more than once in each of two or more consecutive seven-day periods; and~~]
- 1247 [~~(ii) creates any of the conditions described in Subsection (1)(d); or~~]
- 1248 [~~(b) fumes resulting from the unlawful manufacturing or the unlawful possession or use of a controlled  
substance that drift into a residential unit a person rents, leases, or owns, from another residential or  
commercial unit.~~]
- 1251 [~~(5) Subsection (4)(a) does not apply to:~~]
- 1252 [~~(a) a residential rental unit available for temporary rental, such as for a vacation, or available for only  
30 or fewer days at a time; or~~]
- 1254 [~~(b) a hotel or motel room.~~]
- 1255 [~~(6) Subsection (4)(a) does not apply to a unit that is part of a timeshare development, as defined in  
Section 57-19-2, or subject to a timeshare interest as defined in Section 57-19-2.~~]
- 1258 [~~(7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter 44,  
Agricultural Operations Nuisances Act.~~]
- 1245 Section 30. Section **30** is enacted to read:
- 1246 **78B-6a-102. Abrogation of common law nuisance-- Exception -- Reporting requirement.**
- 1248 **(1)**
- 1262 (1){**(a)**} **This chapter abrogates any common law civil right of action for a public nuisance or a private  
nuisance in this state.**
- 1250 **(b) Subsection (1)(a) does not abrogate a common law civil right of action for public nuisance or a  
private nuisance that accrued, or is pending in a court, before May 6, 2026.**
- 1264

## HB0591S02 compared with HB0591S03

(2) Notwithstanding Subsection (1), the attorney general may bring a common law civil right of action for a public nuisance or private nuisance in this state if:

1266 (a) the attorney general determines that there is a substantial ongoing harm to a significant number of the citizens of Utah; and

1268 (b) the attorney general is bringing the common law civil right of action for a public nuisance or a private nuisance:

1270 (i) on behalf of the state, a state officer or agency, or a political subdivision of the state; or

1272 (ii) as parens patriae on behalf of individuals residing in the state.

1273 (3) A person other than the attorney general may not bring a common law civil right of action for a public nuisance or private nuisance.

1275 (4) The governor may direct the attorney general to bring a nuisance action under Subsection (2).

1277 (5) This chapter does not preclude the governor from declaring a public nuisance.

1267 (6) Before October 1, 2029, and every four years thereafter before October 1:

1268 (a) the attorney general shall report to the Judiciary Interim Committee on the attorney general's exercise of the common law right of action described in Subsection (2); and

1270 (b) the Judiciary Interim Committee shall review the attorney general's report and make a determination as to whether Subsections (2) and (3) should be repealed.

1272 Section 31. Section **78B-6a-103** is renumbered and amended to read:

1274 ~~[78B-6-1114]~~ **78B-6a-103. Award of costs and attorney fees.**

1281 (1) The court may award costs, including the costs of investigation and discovery, and reasonable attorney fees, which are not compensated for [~~pursuant to some other~~] in accordance with another provision of law, to the prevailing party in any case in which a party brings an action to abate a nuisance under this [~~part~~] chapter.

1285 (2) [~~The~~] If a defendant is a landlord, owner, or designated agency, the court may award costs, including the costs of investigation and discovery, and reasonable attorney fees against [~~a defendant landlord, owner, or designated agent~~] the defendant only when the court finds that the defendant[ ~~landlord, owner, or designated agent~~] had actual notice of the nuisance action and willfully failed to take reasonable action within a reasonable time to abate the nuisance.

1285 Section 32. Section **78B-6a-104** is renumbered and amended to read:

1287 ~~[78B-6-1102.5]~~ **78B-6a-104. Violation of order enjoining a public or private nuisance -- Civil penalty.**

## HB0591S02 compared with HB0591S03

A person who knowingly violates any judgment or order abating or enjoining a [ nuisance;

as that term is defined in Section ~~78B-6-1101~~] public nuisance or private nuisance:

1297 (1) is guilty of a class B misdemeanor; and

1298 (2) is subject to a civil penalty of \$50 per day for each day that the nuisance continues in violation of the order.

1294 Section 33. Section **33** is enacted to read:

1296 **78B-6a-201. Definitions for part.**

2. Public Nuisance

As used in this part:

1304 (1) "Private party" means a person that is not a government entity.

1305 (2)

(a) "Special injury" means an injury that is different in kind, not just in degree, from an injury sustained by the general public exercising the same public right.

1307 (b) "Special injury" does not include:

1308 (i) an injury that is based upon impairment of the spiritual, cultural, or emotional significance associated with a navigable lake, river, bay, stream, canal, or basin or a public park, square, street, road, or highway; or

1311 (ii) a financial expenditure made by a person in responding, including seeking an injunction in response, to a public nuisance.

1307 Section 34. Section **34** is enacted to read:

1308 **78B-6a-202. Government right of action for a public nuisance.**

1315 (1) Except as otherwise provided by this section or Part 4, Defenses to Nuisances Actions, a government entity has a right of action against a person for a public nuisance if:

1317 (a) the person:

1318 (i) engages in an activity that directly causes a public nuisance and the public nuisance is a reasonably foreseeable result of the person's activity;

1320 (ii) controls or instructs at least one other person to engage in an activity that directly causes the public nuisance and the public nuisance is a reasonably foreseeable result of the other person's activity; or

1323 (iii) is the successive owner of property and neglects to abate a continuing public nuisance upon, or in the use of the property, that was created by a former owner; and

## HB0591S02 compared with HB0591S03

- 1326 (b)
- 1328 (i) the public nuisance would not exist if not for the person's conduct under Subsection (1)(a); or
- (ii) the government entity's expenditures to abate or address the public nuisance would decrease by at least 25%.
- 1330 (2)
- (a) A government entity that is a political subdivision of the state may only bring a public nuisance action described in Subsection (1) if the alleged public nuisance is entirely within the jurisdiction of that government entity.
- 1333 (b) If an alleged public nuisance is not entirely within the jurisdiction of a political subdivision of the state, only the attorney general may bring an action described in Subsection (1) on behalf of the state.
- 1336 (c) The governor may direct the attorney general to bring an action described in Subsection (1) on behalf of the state.
- 1338 (3) A government entity that brings a public nuisance action under Subsection (1) shall plead each element of the public nuisance action:
- 1340 (a) by the verified complaint, counterclaim, or third party complaint; and
- 1341 (b) with particularity under the same standard required by Utah Rules of Civil Procedure, Rule 9.
- 1343 (4) A government entity does not have a right of action under Subsection (1) solely because the government entity has made past, current, or future expenditures in responding, including seeking an injunction in response, to a public nuisance.
- 1346 (5) If a government entity prevails in an action for a public nuisance, the court may only:
- 1347 (a) grant injunctive relief to enjoin the condition that is proximately causing the public nuisance; and
- 1349 (b) award monetary or nonmonetary resources to abate the public nuisance if the court determines the resources are reasonably necessary, by clear and convincing evidence, to abate the public nuisance based upon relevant and reliable cost factors.
- 1352 (6) A government entity may only spend resources awarded under Subsection (5)(b) to abate the public nuisance.
- 1354 (7) If an action is brought under this section, the court may not award:
- 1355 (a) resources for abating a potential future public nuisance; or
- 1356 (b) damages of any kind, including economic, noneconomic, or exemplary damages.
- 1357

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(8) There is no statute of limitations for an action under this section if the public nuisance amounts to an actual ongoing obstruction of a public right.

1359 (9) This section does not limit the authority of a government entity to order a person to vacate the right of way of a navigable lake, river, bay, stream, canal, or basin or a public park, square, street, road, or highway.

1362 (10) A private party may not bring an action for a public nuisance under this section.

1357 Section 35. Section **35** is enacted to read:

1358 **78B-6a-203. Private right of action for a public nuisance.**

1365 (1) Except as otherwise provided by this section and Part 4, Defenses to Nuisances Actions, a private party has a right of action for a public nuisance against a person if:

1367 (a) the person:

1368 (i) engages in an activity that directly causes the public nuisance and the public nuisance is a reasonably foreseeable result of the person's activity;

1370 (ii) controls or instructs at least one other person to engage in an activity that directly causes the public nuisance and the public nuisance is a reasonably foreseeable result of the other person's activity; or

1373 (iii) is the successive owner of property and neglects to abate a continuing public nuisance upon, or in the use of the property, that was created by a former owner;

1375 (b) not for the person's conduct under Subsection (1)(a):

1376 (i) the public nuisance would not exist; or

1377 (ii) the private party's expenditures to abate or address the public nuisance would decrease by at least 25%; and

1379 (c) the private party can establish, by clear and convincing evidence, that the private party has suffered special injury.

1381 (2) A private party that brings a public nuisance action under Subsection (1) shall plead each element of the public nuisance action:

1383 (a) by verified complaint, counterclaim, or third party complaint; and

1384 (b) with particularity under the same standard required by Utah Rules of Civil Procedure, Rule 9.

1386 (3) If a private party brings an action for a public nuisance, the court may only award compensatory damages for the special injury that may not be otherwise reimbursed, or have been reimbursed, by a government entity.

1389

## HB0591S02 compared with HB0591S03

(4) The abatement of a public nuisance by a government entity as described in Section 78B-6a-204 does not preclude a right of action under this section.

1391 (5) A class action may not be brought under this section for special injuries arising out of a public nuisance.

1387 Section 36. Section **36** is enacted to read:

1388 **78B-6a-204. Abatement of a public nuisance.**

1395 (1) A government entity, or an officer of a government entity who is authorized by law, may abate a public nuisance.

1397 (2) Nothing in this section alters the remedies available to a government entity or a private party in a right of action under Sections 78B-6a-202 and 78B-6a-203.

1393 Section 37. Section **37** is enacted to read:

1395 **78B-6a-301. Definitions for part.**

3. Private Nuisance

Reserved.

1397 Section 38. Section **78B-6a-302** is renumbered and amended to read:

1399 **[78B-6-1102] 78B-6a-302. Right of action for private nuisance.**

1406 [(1) An action for nuisance may be brought before a court with jurisdiction by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance.]

1409 (1) Except as otherwise provided by this part or Part 4, Defenses for Nuisance Actions, a person has a right of action for a private nuisance if:

1411 (a) the person owns or possesses a legal interest in the real property that is the subject of the action; and

1413 (b) the person's real property is injuriously affected by the private nuisance or the person's personal enjoyment is lessened by the private nuisance.

1415 (2) [Upon judgment, the court may, in addition to any other relief the court considers just and proper] If the person prevails in an action described in Subsection (1), the court may, in addition to any other relief the court considers just and proper:

1418 (a) award damages;

1419 (b) order the nuisance to be enjoined or abated, ~~[which may include]~~ including:

1420 (i) requiring a defendant to make repairs to the nuisance property or property that is injuriously affected by the nuisance;

1422 (ii) requiring a defendant to:

## HB0591S02 compared with HB0591S03

- 1423 (A) install and maintain secure locks on the nuisance property's doors or windows;  
1424 (B) provide security personnel or video surveillance monitoring of the nuisance property; or  
1426 (C) install and maintain lighting in and around common areas; or  
1427 (iii) abatement by eviction as provided in this part;  
1428 (c) grant declaratory relief as described in Chapter 4, Part 4, Declaratory Judgments; or  
1429 (d) award costs and reasonable attorney fees to the prevailing party as described in Section  
[76B-6-1114] 78B-6a-103.
- 1431 (3) A court that issues a judgment or order under this ~~[part]~~ section retains jurisdiction to enforce the  
judgment or order.
- 1427 Section 39. Section **39** is enacted to read:  
1428 **78B-6a-303. Abatement by eviction of private nuisance.**
- 1435 (1)  
(a) The county attorney, or the county, the city attorney of any incorporated city in the county, any  
citizen or citizens of the state residing in the county, or any person or business doing business in the  
county, has a right of action for abatement by eviction if there is reason to believe that an unsafe  
building or place is kept, maintained, or exists in the city or county.
- 1440 (b) The court may designate a spokesperson from a group of citizens who would otherwise have the  
right to maintain an action in their individual names against the defendant under Subsection (1)(a).
- 1443 (2) A court shall issue an order of abatement by eviction if the plaintiff shows, by a preponderance of  
the evidence, that:
- 1445 (a) the plaintiff will suffer irreparable harm unless the order of abatement by eviction is issued;  
1447 (b) the threatened injury to the plaintiff outweighs any damage the proposed order of abatement by  
eviction may cause the party to be evicted;
- 1449 (c) the order of abatement by eviction would not be adverse to the public interest; and  
1450 (d) there is a substantial likelihood that:
- 1451 (i) the plaintiff will prevail on the merits of the underlying claim; or  
1452 (ii) the case presents serious issues on the merits that should be the subject of further litigation.
- 1454 (3)  
(a) At the time of filing an action for abatement by eviction under Subsection (1), the court may issue  
an order, upon a showing of good cause:
- 1456 (i) to protect the plaintiff; or

## HB0591S02 compared with HB0591S03

- 1457           (ii) to protect a witness who is not a peace officer if proof of the existence of the unsafe building or place depends in whole or in part upon the affidavit of the witness.
- 1460           (b) The order under Subsection (3)(a) may include nondisclosure of the name, address, or any other information that may identify the individual protected by the order.
- 1462           (4)
- (a) A landlord, owner, or designated agent is a necessary defendant in an action for an unsafe building or place for entry of an order to abate the unsafe building or place by eviction where the acts complained of are those of a third party upon the premises of the landlord, owner, or designated agent.
- 1466           (b) At the court's hearing on the action to abate the unsafe building or place by eviction, the court shall notify the necessary parties, including the applicant, the tenant, and the landlord, owner, or designated agent, if:
- 1469           (i) the court finds that an unsafe building or place is a private nuisance; and
- 1470           (ii) as a result, the court is issuing an order to evict the tenant subject to compliance with the security requirement in Subsection (6).
- 1472           (5) In all cases, including default judgments, the order of abatement by eviction may be issued and enforced immediately.
- 1474           (6)
- (a) The court shall condition issuance of an order of abatement by eviction under this section on the giving of security by the plaintiff, in such sum and form as the court determines proper, unless:
- 1477           (i) the court determines that none of the parties will incur or suffer costs, attorney fees, or damages as the result of any wrongful order of abatement by eviction;
- 1479           (ii) the court determines that there exists some substantial reason for dispensing with the requirement of security; or
- 1481           (iii) the plaintiff has proved, by a preponderance of the evidence, the existence of an unsafe building or place.
- 1483           (b) Security described in Subsection (6)(a) may not be required:
- 1484           (i) of the United States, the state, or an officer, agency, or subdivision of the United States or the state;  
or
- 1486           (ii) when prohibited by law.
- 1487           (c) The amount of security may not limit the award of:

## HB0591S02 compared with HB0591S03

- 1488 (i) reasonable attorney fees or costs incurred in connection with the order of abatement by eviction; or  
1490 (ii) damages that may be awarded to a party who is found to have been wrongfully evicted.  
1492 (d)  
(i) A surety upon a bond or undertaking under this Subsection (6) submits to the jurisdiction of the court  
and irrevocably appoints the clerk of the court as agent upon whom any papers affecting the surety's  
liability on the bond or undertaking may be served.  
1496 (ii) The surety's liability may be enforced on motion without the necessity of an independent action.  
1498 (iii) The motion, and any notice of the motion as the court prescribes, may be served on the clerk of the  
court who shall immediately provide a copy to the plaintiff or other person giving the security by the  
means established at the time of the filing of the action.  
1502 (e) Upon request, the plaintiff shall be granted a hearing to be held no later than three days from  
the date the defendant is served with notice of the applicant's giving of security, as described in  
Subsection (6)(a).

1499 Section 40. Section **78B-6a-304** is renumbered and amended to read:

1501 **[78B-6-1113] 78B-6a-304. Evidence of private nuisance -- Requirements for controlled**  
**substance nuisance.**

- 1509 (1) In an action [~~for nuisance or abatement by eviction~~] described in Section 78B-6a-302 or  
78B-6a-303, all evidence authorized by law, including evidence of reputation in a community, is  
admissible to prove the existence of a private nuisance or the elements required for an order of  
abatement by eviction by a preponderance of the evidence.  
1514 (2) If the private nuisance is for fumes resulting from the unlawful manufacturing or the unlawful  
possession or use of a controlled substance that drift into a residential unit a person rents, leases, or  
owns, from another residential or commercial unit:  
1517 (a) the plaintiff is not required to show that a person individually possessed, used, or controlled the  
substance; and  
1519 (b) it is sufficient if the plaintiff shows that the person jointly participated with one or more persons  
in the use, possession, or control of a controlled substance with knowledge that the activity was  
occurring, or the controlled substance is found in a place or under circumstances indicating that the  
person had the ability and the intent to exercise dominion and control over the controlled substance.

1518 Section 41. Section **41** is enacted to read:

1520 **78B-6a-401. Definitions for part.**

## HB0591S02 compared with HB0591S03

### 4. Defenses to Nuisance Actions

As used in this part, "fundamental change" does not include:

- 1528 (1) a change in ownership or size;
- 1529 (2) an interruption of farming for a period of no more than three years;
- 1530 (3) participation in a government-sponsored agricultural program;
- 1531 (4) employment of new technology; or
- 1532 (5) a change in the type of agricultural product produced.

1527 Section 42. Section **78B-6a-402** is renumbered and amended to read:

1529 **[78B-6-1103] 78B-6a-402. Defense in private nuisance action for manufacturing facility in operation over three years.**

1537 (1)

(a) ~~[Notwithstanding Sections 76-9-1301 and 78B-6-1101, a manufacturing facility may not be considered a nuisance because of]~~ A person or government entity does not have a right of action for a private nuisance under this chapter for any changed circumstance in land uses near [the] a manufacturing facility if:

1541 (i) the manufacturing facility has been in operation for more than three years; and

1542 (ii) the manufacturing facility was not a private nuisance at the time ~~[it]~~ the manufacturing facility began operation.

1544 (b) The manufacturing facility may not increase the condition asserted to be a private nuisance.

1546 (c) The provisions of this Subsection (1) do not apply if a private nuisance results from the negligent or improper operation of a manufacturing facility.

1548 (2) Nothing in this section affects the right of a person in an action other than an action for a private or public nuisance to recover damages for injuries or damage sustained as a result of the pollution or change in the conditions of the waters of a stream or overflow of the lands of any person.

1552 (3)

(a) Any and all ordinances ~~[now or in the future]~~ adopted by any county or municipal corporation in which a manufacturing facility is located ~~[and which makes its]~~ that makes the manufacturing facility's operation a private nuisance or providing for an abatement as a private nuisance in the circumstances set forth in this section are null and void.

1557 (b) The provisions of this Subsection (3) may not apply whenever a private nuisance results from the negligent or improper operation of a manufacturing facility.

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- 1559 (4) This section does not apply to an action under Part 2, Public Nuisance.  
1554 Section 43. Section **78B-6a-403** is renumbered and amended to read:  
1556 **~~[78B-6-1115]~~ 78B-6a-403. Defense in private nuisance action for critical infrastructure materials operations.**
- 1564 (1) [Activities] A person or government entity does not have a right of action for a private nuisance under this chapter for an activity conducted in the normal and ordinary course of a critical infrastructure materials [operations] operation or conducted in accordance with sound practices [are] is presumed to be reasonable[and not constitute a nuisance].
- 1568 (2) [Critical] A critical infrastructure materials [operations] operation undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, [are] is presumed to be operating within sound critical infrastructure materials practices.
- 1572 (3) This section does not apply to an action under Part 2, Public Nuisance.  
1567 Section 44. Section **78B-6a-404** is renumbered and amended to read:  
1569 **~~[4-44-201]~~ 78B-6a-404. Defense in nuisance action for agricultural operations.**
- 1576 (1) [It is a defense in a civil action for nuisance against an agricultural operation that]  
1577 (a) A person or government entity does not have a right of action under this chapter for a private nuisance that is an agricultural operation if:
- 1579 [(a)] (i) the plaintiff is not a legal possessor of the real property affected by the conditions alleged to be the public nuisance or private nuisance;
- 1581 [(b)] (ii) the real property affected by the conditions alleged to be the public nuisance or private nuisance is located outside one-half mile of the source of the activity or structure alleged to be the public nuisance or private nuisance; or
- 1584 [(c)] (iii) the action is filed more than one year after:
- 1585 [(i)] (A) the establishment of the agricultural operation; or
- 1586 [(ii)] (B) the agricultural operation undergoes a fundamental change.
- 1587 [(2)] (b) [This section] Subsection (1)(a) may not be construed to invalidate any contract made before May 14, 2019.
- 1589 (2)  
(a) A person or government entity does not have a right of action under this chapter for a private nuisance that is an agricultural operation if the agricultural operation is conducted in the normal

## HB0591S02 compared with HB0591S03

and ordinary course of an agricultural operation or conducted in accordance with sound agricultural practices.

- 1593 (b) An agricultural operation undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, is presumed to be operating within sound agricultural practices.
- 1596 (3) A person or government entity has no right of action for a public nuisance or private nuisance if the action involves an agricultural activity and the agricultural activity is:
- 1598 (a) conducted within an agriculture protection area; and
- 1599 (b) not in violation of any federal, state, or local law or regulation relating to the alleged nuisance or was conducted according to sound agricultural practices.
- 1601 [(3)] (4) In a public nuisance or private nuisance action [against] for an agricultural operation, the court shall award costs and expenses, including reasonable attorney fees, to:
- 1604 (a) the [agricultural operation] defendant when the court finds the agricultural operation is not a [nuisance and the] public nuisance or private nuisance and the action is frivolous or malicious; or
- 1607 (b) the plaintiff when the court finds the agricultural operation is a public nuisance or private nuisance and the [agricultural operation] defendant asserts an affirmative defense in the [nuisance-]action that is frivolous and malicious.
- 1610 [(4) A person who knowingly violates a judgment or order abating or otherwise enjoining a nuisance is guilty of a class B misdemeanor.]
- 1606 Section 45. Section **78B-6a-405** is renumbered and amended to read:
- 1608 **[78B-6-1106] 78B-6a-405. Limitations on tobacco and drug nuisance actions.**
- 1615 (1) [There is no cause of action for a nuisance under Subsection 78B-6-1101(4)(a)] There is no right of action under this chapter for a tobacco nuisance if the rental, lease, restrictive covenant, or purchase agreement for the unit states in writing that:
- 1618 (a) tobacco smoking is allowed in other units, either residential or commercial, and that tobacco smoke from those units may drift into the unit that is subject to the agreement; and
- 1621 (b) by signing the agreement the renter, lessee, or buyer acknowledges [he has] they have been informed that tobacco smoke may drift into the unit [he is] they are renting, leasing, or purchasing, and [he waives] they waive any right to a cause of action for a [nuisance under Subsection 78B-6-1101(4)] tobacco nuisance.

1625

## HB0591S02 compared with HB0591S03

(2) A cause of action for [~~a nuisance under Subsection 78B-6-1101(4)(a)~~] a tobacco nuisance may be brought against:

- 1627 (a) the individual generating the tobacco smoke;
- 1628 (b) the renter or lessee who permits or fails to control the generation of tobacco smoke, in violation of the terms of the rental or lease agreement, on the premises the renter or lessee rents or leases; or
- 1631 (c) the landlord, but only if:
- 1632 (i) the terms of the renter's or lessee's contract provide the unit will not be subject to the nuisance of drifting tobacco smoke;
- 1634 (ii) the complaining renter or lessee has provided to the landlord a statement in writing indicating that tobacco smoke is creating a nuisance in the renter's or lessee's unit; and
- 1637 (iii) the landlord knowingly allows the continuation of a [~~nuisance under Subsection 78B-6-1101(4)~~] tobacco nuisance after receipt of written notice under Subsection (2)(c)(ii), and in violation of the terms of the rental or lease agreement under Subsection [~~(2)(e)(i)~~] (2)(b).

1641 (3) A cause of action for [~~nuisance under Subsection 78B-6-1101(4)(b)~~] a drug nuisance may be brought against:

- 1643 (a) an individual who generates fumes by the unlawful manufacturing or the unlawful possession or use of a controlled substance;
- 1645 (b) a renter or lessee who permits or fails to control the generation of fumes from the unlawful manufacturing or the unlawful possession or use of a controlled substance on the premises the renter or lessee rents or leases; or
- 1648 (c) a landlord, but only if:
- 1649 (i) the complaining renter or lessee has provided to the landlord a statement in writing indicating that fumes from the unlawful manufacturing or the unlawful possession or use of a controlled substance are creating a nuisance in the renter's or lessee's unit; and
- 1653 (ii) the landlord knowingly allows the continuation of a [~~nuisance under Subsection 78B-6-1101(4)(b)~~] drug nuisance after receipt of written notice under Subsection (3)(c)(i).
- 1656 (4) It is a defense to a drug nuisance if the defendant can prove that the defendant is lawfully entitled to the possession or use of a controlled substance.

1652 Section 46. Section **46** is enacted to read:

1653 **78B-6a-407. Defense in nuisance action for shooting range.**

1660

## HB0591S02 compared with HB0591S03

(1) A person or government entity does not have a right of action under this chapter against a person who operates or uses a shooting range in this state for noise or noise pollution resulting from the operation or use of the shooting range if the shooting range:

1663

(a)

(i) was established, constructed, or operated before the implementation of any noise ordinances, rules, or regulations; and

1665

(ii) does not substantially and adversely affect public health or safety; or

1666

(b)

(i) is in compliance with any noise control laws, ordinances, rules, or regulations that applied to the shooting range and the shooting range's operation at the time of establishment, construction, or initial operation of the shooting range; and

1669

(ii) does not substantially and adversely affect public health or safety.

1670

(2) For purposes of this section, noise generated by a shooting range that is operated in accordance with nationally recognized standards and operating practices does not constitute a public nuisance or a private nuisance.

1667

Section 47. Section **47** is enacted to read:

1668

**78B-6a-408. Defense for migratory bird production area.**

A person or government entity does not have a right of action under this chapter if the public nuisance or private nuisance is:

1677

(1) normally associated with a migratory bird production area;

1678

(2) conducted within a migratory bird production area; and

1679

(3) not in violation of federal or state law.

1674

Section 48. **Repealer.**

This Bill Repeals:

1675

This bill repeals:

1676

Section **4-44-101, Title.**

1677

Section **4-44-102, Definitions.**

1678

Section **4-44-202, Application of other statutes -- Ordinances.**

1679

Section **47-1-1, Declared a nuisance -- Abatement.**

1680

Section **47-1-2, Injunction -- Notice to owner of premises.**

1681

Section **47-1-3, Evidence -- Dismissal of action -- Costs.**

## HB0591S02 compared with HB0591S03

1682 Section 47-1-4, Violation of injunction -- Proceedings for contempt.  
1683 Section 47-1-5, Order of abatement -- Execution -- Sale of personal property --  
1684 **Padlocking.**  
1685 Section 47-1-6, Proceeds of sale -- Disposition.  
1686 Section 47-1-7, Bond to secure abatement -- Procedure.  
1687 Section 47-1-8, Permanent injunction -- Fine.  
1688 Section 47-2-1, "Abandoned horse" defined.  
1689 Section 47-2-2, "Open range" defined.  
1690 Section 47-3-101, Title.  
1691 Section 76-9-1306, Action for abatement of public nuisance.  
1692 Section 76-9-1307, Relief granted for a public nuisance that offends public decency.  
1693 Section 78B-6-1107, Nuisance -- Drug houses and drug dealing -- Gambling -- Group  
1694 **criminal activity -- Party house -- Prostitution -- Weapons -- Discharge of a firearm -- Defense.**  
1695 Section 78B-6-1108, Nuisance -- Abatement by eviction.  
1696 Section 78B-6-1109, Abatement by eviction order -- Grounds.  
1697 Section 78B-6-1110, Prior acts or threats of violence -- Protection of applicant or witness.  
1698 Section 78B-6-1111, Landlord, owner, or designated agent -- Necessary party --  
1699 **Automatic eviction.**  
1700 Section 78B-6-1112, Security requirement -- Amount not a limitation -- Jurisdiction over  
1701 **surety.**  
1702 Section 49. **Effective date.**  
Effective Date.  
This bill takes effect on May 6, 2026.

3-5-26 10:55 AM