Chapter 4
Limitations on Liability

Part 1
Liability Protection for Volunteers

78B-4-101 Definitions.

As used in this part:

(1) "Damage or injury" includes physical, nonphysical, economic, and noneconomic damage.

(2) "Financially secure source of recovery" means that, at the time of the incident, a nonprofit organization:

(a) has an insurance policy in effect that covers the activities of the volunteer and has an insurance limit of not less than the limits established under the Governmental Immunity Act of Utah in Section 63G-7-604; or

(b) has established a qualified trust with a value not less than the combined limits for property damage and single occurrence liability established under the Governmental Immunity Act of Utah in Section 63G-7-604.

(3) "Nonprofit organization" means any organization, other than a public entity, described in Section 501 (c) of the Internal Revenue Code of 1986 and exempt from tax under Section 501 (a) of that code.

(4) "Public entity" has the same meaning as defined in Section 63G-8-102.

(5) "Qualified trust" means a trust held for the purpose of compensating claims for damages or injury in a trust company licensed to do business in this state under the provisions of Title 7, Chapter 5, Trust Business.

(6) "Reimbursements" means, with respect to each nonprofit organization:

(a) compensation or honoraria totaling less than $300 per calendar year; and

(b) payment of expenses actually incurred.

(7)

(a) "Volunteer" means an individual performing services for a nonprofit organization who does not receive anything of value from that nonprofit organization for those services except reimbursements.

(b) "Volunteer" includes a volunteer serving as a director, officer, trustee, or direct service volunteer.

(c) "Volunteer" does not include an individual performing services for a public entity to the extent the services are within the scope of Title 63G, Chapter 8, Immunity for Persons Performing Voluntary Services Act, or Title 67, Chapter 20, Volunteer Government Workers Act.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-102 Liability protection for volunteers -- Exceptions.

(1) Except as provided in Subsection (2), no volunteer providing services for a nonprofit organization incurs any legal liability for any act or omission of the volunteer while providing services for the nonprofit organization and no volunteer incurs any personal financial liability for any tort claim or other action seeking damage for an injury arising from any act or omission of the volunteer while providing services for the nonprofit organization if:

(a) the individual was acting in good faith and reasonably believed he was acting within the scope of his official functions and duties with the nonprofit organization; and

(b) the damage or injury was not caused by an intentional or knowing act by the volunteer which constitutes illegal, willful, or wanton misconduct.
(2) The protection against volunteer liability provided by this section does not apply:
(a) to injuries resulting from a volunteer's operation of a motor vehicle, a vessel, aircraft or other vehicle for which a pilot or operator's license is required;
(b) when a suit is brought by an authorized officer of a state or local government to enforce a federal, state, or local law; or
(c) where the nonprofit organization for which the volunteer is working fails to provide a financially secure source of recovery for individuals who suffer injuries as a result of actions taken by the volunteer on behalf of the nonprofit organization.
(3) Nothing in this section shall bar an action by a volunteer against an organization, its officers, or other persons who intentionally or knowingly misrepresent that a financially secure source of recovery does or will exist during a period when such a source does not or will not in fact exist.
(4) Nothing in this section shall be construed to place a duty upon a nonprofit organization to provide a financially secure source of recovery.
(5) The granting of immunity from liability to a volunteer under this section does not affect the liability of the nonprofit organization providing the financially secure source of recovery.

Amended by Chapter 218, 2010 General Session

78B-4-103 Liability protection for organizations.

A nonprofit organization is not liable for the acts or omissions of its volunteers in any circumstance where:
(1) the acts of its volunteers are not as described in Subsection 78B-4-102(1) unless the nonprofit organization had, or reasonably should have had, reasonable notice of the volunteer's unfitness to provide services to the nonprofit organization under circumstances that make the nonprofit organization's use of the volunteer reckless or wanton in light of that notice; or
(2) a business employer would not be liable under the laws of this state if the act or omission were the act or omission of one of its employees.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 2
Limitations on Liability for Equine and Livestock Activities

78B-4-201 Definitions.

As used in this part:
(1) "Equine" means any member of the equidae family.
(2) "Equine activity" means:
(a) equine shows, fairs, competitions, performances, racing, sales, or parades that involve any breeds of equines and any equine disciplines, including dressage, hunter and jumper horse shows, grand prix jumping, multiple-day events, combined training, rodeos, driving, pulling, cutting, polo, steeple chasing, hunting, endurance trail riding, and western games;
(b) boarding or training equines;
(c) teaching persons equestrian skills;

(d) riding, inspecting, or evaluating an equine owned by another person regardless of whether the owner receives monetary or other valuable consideration;
(e) riding, inspecting, or evaluating an equine by a prospective purchaser; or
(f) other equine activities of any type including rides, trips, hunts, or informal or spontaneous activities sponsored by an equine activity sponsor.
(3) "Equine activity sponsor" means an individual, group, governmental entity, club, partnership, or corporation, whether operating for profit or as a nonprofit entity, which sponsors, organizes, or provides facilities for an equine activity, including:
(a) pony clubs, hunt clubs, riding clubs, 4-H programs, therapeutic riding programs, and public and private schools and postsecondary educational institutions that sponsor equine activities; and
(b) operators, instructors, and promoters of equine facilities, stables, clubhouses, ponyride strings, fairs, and arenas.
(4) "Equine professional" means a person compensated for an equine activity by:
(a) instructing a participant;
(b) renting to a participant an equine to ride, drive, or be a passenger upon the equine; or
(c) renting equine equipment or tack to a participant.
(5) "Inherent risk" with regard to equine or livestock activities means those dangers or conditions which are an integral part of equine or livestock activities, which may include:
(a) the propensity of the animal to behave in ways that may result in injury, harm, or death to persons on or around them;
(b) the unpredictability of the animal's reaction to outside stimulation such as sounds, sudden movement, and unfamiliar objects, persons, or other animals;
(c) collisions with other animals or objects; or
(d) the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the animal or not acting within his or her ability.
(6) "Livestock" means all domesticated animals used in the production of food, fiber, or livestock activities.
(7) "Livestock activity" means:
(a) livestock shows, fairs, competitions, performances, packing events, or parades or rodeos that involve any or all breeds of livestock;
(b) using livestock to pull carts or to carry packs or other items;
(c) using livestock to pull travois-type carriers during rescue or emergency situations;
(d) livestock training or teaching activities or both;
(e) taking livestock on public relations trips or visits to schools or nursing homes;
(f) boarding livestock;
(g) riding, inspecting, or evaluating any livestock belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the livestock or is permitting a prospective purchaser of the livestock to ride, inspect, or evaluate the livestock;
(h) using livestock in wool production;
(i) rides, trips, or other livestock activities of any type however informal or impromptu that are sponsored by a livestock activity sponsor; and
(j) trimming the feet of any livestock.
(8) "Livestock activity sponsor" means an individual, group, governmental entity, club, partnership, or corporation, whether operating for profit or as a nonprofit entity, which sponsors, organizes, or provides facilities for a livestock activity, including:

(a) livestock clubs, 4-H programs, therapeutic riding programs, and public and private schools and postsecondary educational institutions that sponsor livestock activities; and
(b) operators, instructors, and promoters of livestock facilities, stables, clubhouses, fairs, and arenas.
(9) "Livestock professional" means a person compensated for a livestock activity by:
(a) instructing a participant;
(b) renting to a participant any livestock for the purpose of riding, driving, or being a passenger upon the livestock; or
(c) renting livestock equipment or tack to a participant.
(10) "Participant" means any person, whether amateur or professional, who directly engages in an equine activity or livestock activity, regardless of whether a fee has been paid to participate.
(11)
(a) "Person engaged in an equine or livestock activity" means a person who rides, trains, leads, drives, or works with an equine or livestock, respectively.
(b) Subsection (11)(a) does not include a spectator at an equine or livestock activity or a participant at an equine or livestock activity who does not ride, train, lead, or drive an equine or any livestock.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-202 Equine and livestock activity liability limitations.
(1) It shall be presumed that participants in equine or livestock activities are aware of and understand that there are inherent risks associated with these activities.
(2) An equine activity sponsor, equine professional, livestock activity sponsor, or livestock professional is not liable for an injury to or the death of a participant due to the inherent risks associated with these activities, unless the sponsor or professional:
(a)
(i) provided the equipment or tack;
(ii) the equipment or tack caused the injury; and
(iii) the equipment failure was due to the sponsor's or professional's negligence;
(b) failed to make reasonable efforts to determine whether the equine or livestock could behave in a manner consistent with the activity with the participant;
(c) owns, leases, rents, or is in legal possession and control of land or facilities upon which the participant sustained injuries because of a dangerous condition which was known to or should have been known to the sponsor or professional and for which warning signs have not been conspicuously posted;
(d)
(i) commits an act or omission that constitutes negligence, gross negligence, or willful or wanton disregard for the safety of the participant; and
(ii) that act or omission causes the injury; or
(e) intentionally injures or causes the injury to the participant.
(3) This chapter does not prevent or limit the liability of an equine activity sponsor, an equine professional, a livestock activity sponsor, or a livestock professional who is:
(a) a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in an action to recover for damages incurred in the course of providing professional treatment of an equine;
(b) liable under Title 4, Chapter 25, Estrays; or
(c) liable under Title 78B, Chapter 6, Part 7, Utah Product Liability Act.

Amended by Chapter 345, 2017 General Session

78B-4-203 Signs to be posted listing inherent risks and liability limitations.

(1) An equine or livestock activity sponsor shall provide notice to participants of the equine or livestock activity that there are inherent risks of participating and that the sponsor is not liable for certain of those risks.

(2) Notice shall be provided by:

(a) posting a sign in a prominent location within the area being used for the activity; or

(b) providing a document or release for the participant, or the participant's legal guardian if the participant is a minor, to sign.

(3) The notice provided by the sign or document shall be sufficient if it includes the definition of inherent risk in Section 78B-4-201 and states that the sponsor is not liable for those inherent risks.

(4) Notwithstanding Subsection (1), signs are not required to be posted for parades and activities that fall within Subsections 78B-4-201(2)(f) and (7)(c), (e), (g), (h), and (j).

Renumbered and Amended by Chapter 3, 2008 General Session

Part 3
Commonsense Consumption Act

78B-4-301 Title.

This part is known as the "Commonsense Consumption Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-302 Definitions.

As used in this part:

(1) "Claim" means any assertion by or on behalf of a natural person, as well as any derivative claim arising from it, and asserted by or on behalf of any other person.

(2) "Food":

(a) means any raw, cooked, or processed edible substance, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption;

(b) does not include:

(i) tobacco products;

(ii) alcohol products;

(iii) vitamins or dietary supplements;

(iv) illegal drugs; or

(v) prescription or over-the-counter drugs.

(3) "Knowing and willful violation" means that the conduct constituting the violation was:

(a) committed with the intent to deceive or injure consumers or with actual knowledge that the conduct was injurious to consumers; and

(b) not required by regulation, order, rule, ordinance, or any statute administered by a federal, state, or local government agency.

(4) "Condition resulting from long term consumption of food" means the cumulative effect of consumption of food, which includes weight gain, obesity, or other generally known health conditions allegedly caused by or likely to result from the consumption of food.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-303 Prevention of unfounded lawsuits -- Exemption.

(1) Except as provided in Subsection (2), a manufacturer, packer, distributor, carrier, holder, seller, marketer, advertiser of a food, or an association of one or more such entities, may not be subject to civil liability arising under any state statute, rule, public policy, court or administrative decision, municipal ordinance, or other action having the effect of law, for any claim of obesity or weight gain resulting from the consumption of food.

(2) Subsection (1) may not apply where the claim of obesity or weight gain is based on:

(a) a material violation of an adulteration or misbranding requirement prescribed by state or federal statute, rule, regulation, or ordinance and the claimed injury was proximately caused by the violation; or

(b) any other material violation of federal or state law applicable to the manufacturing, marketing, distribution, advertising, labeling, or sale of food, provided that the violation is knowing and willful, and the claimed injury was proximately caused by the violation.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-304 Pleading requirements.

(1) In any action commenced under the provisions of Subsection 78B-4-303(2), the complaint or petition shall state with particularity the following:

(a) the statute, rule, regulation, ordinance, or other law that was allegedly violated;

(b) the facts that are alleged to constitute a material violation of the statute, rule, regulation, ordinance, or other law; and

(c) the facts alleged to demonstrate that the violation proximately caused actual injury to the plaintiff.

(2) The complaint or petition shall also state with particularity facts sufficient to support a reasonable inference that the violation was with intent to deceive or injure consumers or with the actual knowledge that the violation was injurious to consumers.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-305 Stay pending motion to dismiss.

(1) In any action commenced under the provisions of Subsection 78B-4-303(2), all discovery and other proceedings shall be stayed during the pendency of any motion to dismiss unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to a party.

(2) During the pendency of any stay of discovery pursuant to this section, unless otherwise ordered by the court, any party to the action with actual notice of the allegations contained in the complaint shall treat all documents, data compilations, and tangible objects that are in the custody or control of the party and are relevant to the allegations, as if they were the subject of a continuing request for production from an opposing party under Rule 34, URCP.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-306 Applicability.

The provisions of this chapter apply to all covered claims pending on May 3, 2004, and all claims filed after that date, regardless of when the claim arose.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 4
Inherent Risks of Skiing

78B-4-401 Public policy.

(1) The Legislature finds that:
- (a) the sport of skiing is practiced by a large number of residents of Utah and attracts a large number of nonresidents, significantly contributing to the economy of this state;
- (b) few insurance carriers are willing to provide liability insurance protection to ski area operators; and
- (c) the premiums charged by insurance carriers have risen sharply in recent years due to confusion as to whether a skier assumes the risks inherent in the sport of skiing.

(2) It is the purpose of this act:
- (a) to clarify the law in relation to skiing injuries and the risks inherent in the sport of skiing;
- (b) to establish as a matter of law that certain risks are inherent in the sport of skiing; and
- (c) to provide that, as a matter of public policy, an individual engaged in the sport of skiing may not recover from a ski operator for injuries resulting from the risks that are inherent in the sport of skiing.

Amended by Chapter 295, 2020 General Session

78B-4-402 Definitions.

As used in this part:

(1) "Inherent risks of skiing" means the dangers or conditions that are an integral part of the sport of recreational, competitive, or professional skiing, including:
- (a) changing weather conditions;
- (b) snow or ice conditions as the snow or ice conditions exist or may change, including hard pack, powder, packed powder, wind pack, corn, crust, slush, cut-up snow, or machine-made snow;
- (c) surface or subsurface conditions, including bare spots, forest growth, rocks, stumps, streambeds, cliffs, trees, or other natural objects;
- (d) variations or steepness in terrain, whether natural or as a result of slope design, snowmaking or grooming operations, or other terrain modifications, including:
  - (i) terrain parks;
  - (ii) terrain features, including jumps, rails, or fun boxes; or
  - (iii) all other constructed and natural features, including half pipes, quarter pipes, or freestyle-bump terrain;
- (e) impact with lift towers, other structures, or their components, including signs, posts, fences or enclosures, hydrants, or water pipes;
- (f) collisions with other skiers;

(g) participation in, or practicing or training for, competitions or special events; and
(h) the failure of a skier to ski within the skier's own ability.
(2) "Injury" means any personal injury or property damage or loss.
(3) "Minor" means an individual who is under 18 years old.
(4) "Skier" means an individual present in a ski area for the purpose of engaging in the sport of skiing, nordic, freestyle, or other types of ski jumping, or using skis, a sled, a tube, a snowboard, or any other device.
(5) "Ski area" means any area designated by a ski area operator to be used for skiing, nordic, freestyle or other type of ski jumping, or snowboarding.
(6)
(a) "Ski area operator" means a person that operates a ski area.
(b) "Ski area operator" includes an agent, an officer, an employee, or a representative of the person that operates a ski area.

Amended by Chapter 295, 2020 General Session

78B-4-403 Bar against claim or recovery from operator for injury from risks inherent in sport.

Notwithstanding Sections 78B-5-817 through 78B-5-823, a skier may not make any claim against, or recover from, a ski area operator for injury resulting from inherent risks of skiing.

Amended by Chapter 295, 2020 General Session

78B-4-404 Trail boards listing inherent risks and limitations on liability.

A ski area operator shall:
(1) post trail boards at one or more prominent locations within each ski area; and
(2) include a list of the inherent risks of skiing and the limitations on liability of ski area operators on the trail board.

Amended by Chapter 295, 2020 General Session

78B-4-405 Liability agreements.

(1) A skier may enter into an agreement with a ski area operator before an injury to:
(a) waive a claim that the skier is permitted to bring against a ski area operator; or
(b) release the ski area operator from a claim that the skier is permitted to bring under this part.
(2) If the skier is a minor, the skier, or the skier's parent or guardian on behalf of the minor, may not enter into an agreement described in Subsection (1)(a).

Enacted by Chapter 295, 2020 General Session

78B-4-406 Limitation on damages.

(1) In an action arising on or after May 12, 2020, against a ski area operator for a claim not prohibited under this part, in which the skier, or a person authorized to bring a claim on behalf of the skier, recovers for an injury and is awarded noneconomic losses, the amount of the award for noneconomic losses may not exceed $1,000,000.
(2) The limit on an award for noneconomic losses described in Subsection (1) does not apply to an award:
(a) of punitive damages; or

(b) for a wrongful death action.

Enacted by Chapter 295, 2020 General Session

Part 5
Particular Limitations on Liability

78B-4-501 Good Samaritan Law.

(1) As used in this section:

(a) "Child" means an individual of such an age that a reasonable person would perceive the individual as unable to open the door of a locked motor vehicle, but in any case younger than 18 years of age.

(b) "Emergency" means an unexpected occurrence involving injury, threat of injury, or illness to a person or the public, including motor vehicle accidents, disasters, actual or threatened discharges, removal or disposal of hazardous materials, and other accidents or events of a similar nature.

(c) "Emergency care" includes actual assistance or advice offered to avoid, mitigate, or attempt to mitigate the effects of an emergency.

(d) "First responder" means a state or local:

(i) law enforcement officer, as defined in Section 53-13-103;

(ii) firefighter, as defined in Section 34A-3-113; or

(iii) emergency medical service provider, as defined in Section 53-2d-101.

(e) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(2) A person who renders emergency care at or near the scene of, or during, an emergency, gratuitously and in good faith, is not liable for any civil damages or penalties as a result of any act or omission by the person rendering the emergency care, unless the person is grossly negligent or caused the emergency.

(3)

(a) A person who gratuitously, and in good faith, assists a governmental agency or political subdivision in an activity described in Subsections (3)(a)(i) through (iii) is not liable for any civil damages or penalties as a result of any act or omission, unless the person rendering assistance is grossly negligent in:

(i) implementing measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health, or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(ii) investigating and controlling suspected bioterrorism and disease as set out in Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases; and

(iii) responding to a national, state, or local emergency, a public health emergency as defined in Section 26B-7-301, or a declaration by the president of the United States or other federal official requesting public health-related activities.

(b) The immunity in this Subsection (3) is in addition to any immunity or protection in state or federal law that may apply.

(4)

(a) A person who uses reasonable force to enter a locked and unattended motor vehicle to remove a confined child is not liable for damages in a civil action if all of the following apply:

(i) the person has a good faith belief that the confined child is in imminent danger of suffering physical injury or death unless the confined child is removed from the motor vehicle;
(ii) the person determines that the motor vehicle is locked and there is no reasonable manner in which the person can remove the confined child from the motor vehicle;
(iii) before entering the motor vehicle, the person notifies a first responder of the confined child;
(iv) the person does not use more force than is necessary under the circumstances to enter the motor vehicle and remove the confined child from the vehicle; and
(v) the person remains with the child until a first responder arrives at the motor vehicle.

(b) A person is not immune from civil liability under this Subsection (4) if the person fails to abide by any of the provisions of Subsection (4)(a) or commits any unnecessary or malicious damage to the motor vehicle.

Amended by Chapter 310, 2023 General Session
Amended by Chapter 330, 2023 General Session

78B-4-502 Donation of food -- Liability limits.

(1) A person or entity who donates apparently wholesome food to a nonprofit organization for distribution to the needy is not subject to civil or criminal liability regarding the condition of the food unless an injury or death results from an act or omission of the donor that constitutes gross negligence, recklessness, or intentional misconduct.
(2) A nonprofit organization that distributes either directly or indirectly apparently wholesome food to persons in need at no charge and substantially complies with applicable local, county, state, and federal laws and regulations regarding the storage and handling of food for public distribution is not subject to civil or criminal liability regarding the condition of the food unless an injury or death results from an act or omission of the organization that constitutes gross negligence, recklessness, or intentional misconduct.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-503 Immunity for transient shelters.

(1) As used in this section, "transient shelter" means any person which provides shelter, food, clothing, or other products or services without consideration to indigent persons.
(2) Except as provided in Subsection (3), all transient shelters, owners, operators, and employees of transient shelters, and persons who contribute products or services to transient shelters, are immune from suit for damages or injuries arising out of or related to the damaged or injured person's use of the products or services provided by the transient shelter.
(3) This section does not prohibit an action against a person for damages or injury intentionally caused by that person or resulting from his gross negligence.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-504 Donation of nonschedule drugs or devices -- Liability limitation.

(1) As used in this section:
(a) "Administer" is as defined in Section 58-17b-102.
(b) "Dispense" is as defined in Section 58-17b-102.
(c) "Distribute" is as defined in Section 58-17b-102.
(d) "Drug outlet" means:
(i) a pharmacy or pharmaceutical facility as defined in Section 58-17b-102; or

(ii) a person with the authority to engage in the dispensing, delivering, manufacturing, or wholesaling of prescription drugs or devices outside of the state under the law of the jurisdiction in which the person operates.

(e) "Health care provider" means:

(i) a person who is a health care provider, as defined in Section 78B-3-403, with the authority under Title 58, Occupations and Professions, to prescribe, dispense, or administer prescription drugs or devices; or

(ii) a person outside of the state with the authority to prescribe, dispense, or administer prescription drugs or devices under the law of the jurisdiction in which the person practices.

(f) "Nonschedule drug or device" means:

(i) a prescription drug or device, as defined in Section 58-17b-102, except that it does not include controlled substances, as defined in Section 58-37-2; or

(ii) a nonprescription drug, as defined in Section 58-17b-102.

(g) "Prescription drug or device" is as defined in Section 58-17b-102.

(2) A drug outlet is not subject to civil liability for an injury or death resulting from the defective condition of a nonschedule drug or device that the drug outlet distributes at no charge, in good faith, and for a charitable purpose to a drug outlet or health care provider for ultimate use by a needy person, provided that:

(a) the drug outlet complies with applicable state and federal laws regarding the storage, handling, and distribution of the nonschedule drug or device; and

(b) the injury or death is not the result of any act or omission of the drug outlet that constitutes gross negligence, recklessness, or intentional misconduct.

(3) A health care provider is not subject to civil liability for an injury or death resulting from the defective condition of a nonschedule drug or device that the health care provider distributes to a drug outlet or health care provider for ultimate use by a needy person or directly administers, dispenses, or distributes to a needy person, provided that:

(a) the health care provider complies with applicable state and federal laws regarding the storage, handling, distribution, dispensing, and administration of the nonschedule drug or device;

(b) the injury or death is not the result of any act or omission of the health care provider that constitutes gross negligence, recklessness, or intentional misconduct; and

(c) in the event that the health care provider directly administers, distributes, or dispenses the nonschedule drug or device to the needy person, the health care provider has retained a consent form signed by the needy person that explains the provisions of this section which extend liability protection for charitable donations of nonschedule drugs and devices.

(4) Nothing in this section may be construed as:

(a) permitting a person who is not authorized under Title 58, Occupations and Professions, to operate as a drug outlet or practice as a health care provider within the state; or

(b) extending liability protection to any person who acts outside of the scope of authority granted to that person under the laws of this state or the jurisdiction in which the person operates or practices.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-505 Liability of reprocessor of single-use medical devices.

(1) For purposes of this section:

(a) "Critical single-use medical device" means a medical device that:

(i) is marked as a single-use device by the original manufacturer; and

(ii) is intended to directly contact normally sterile tissue or body spaces during use, or is physically connected to a device intended to contact normally sterile tissue or body spaces during use.

(b) "Original manufacturer" means any person or entity who designs, manufactures, fabricates, assembles, or processes a critical single-use medical device which is new and has not been used in a previous medical procedure.

(c) "Reprocessor" includes a person or entity who performs the functions of contract sterilization, installation, relabeling, remanufacturing, repacking, or specification development of a reprocessed critical single-use medical device.

(d) "Reconditioned or reprocessed critical single-use medical device" means a critical single use medical device that:

(i) has previously been used on a patient and has been subject to additional processing and manufacturing for the purpose of additional use on a different patient;

(ii) includes a device that meets the definition under Subsection (1)(a), but has been labeled by the reprocessor as "recycled," "refurbished," or "reused"; and

(iii) does not include a disposable or critical single-use medical device that has been opened but not used on an individual.

(2) A reprocessor who reconditions or reprocesses a critical single-use medical device assumes the liability:

(a) of the original manufacturer of the critical single-use medical device; and

(b) for the safety and effectiveness of the reconditioned or reprocessed critical single-use medical device.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-506 Limited immunity for architects and engineers inspecting earthquake damage.

(1) A professional engineer licensed under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, or an architect licensed under Title 58, Chapter 3a, Architects Licensing Act, who provides structural inspection services at the scene of a declared national, state, or local emergency caused by a major earthquake is not liable for any personal injury, wrongful death, or property damage caused by the good faith inspection for structural integrity or nonstructural elements affecting health and safety of a structure used for human habitation or owned by a public entity if the inspection is performed:

(a) voluntarily, without compensation or the expectation of compensation;

(b) at the request of a public official or city or county building inspector acting in an official capacity; and

(c) within 30 days of the earthquake.

(2) The immunity provided for in Subsection (1) does not apply to gross negligence or willful misconduct.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-507 Amusement park rides -- Park responsibilities -- Rider responsibilities.

(1) As used in this section:

(a)

(i) "Amusement park" means any permanent indoor or outdoor facility or park where amusement rides are available for use by the general public.

(ii) "Amusement park" does not include a ski resort, a traveling show, carnival, or fair.

(b) "Amusement ride" means a device or attraction at an amusement park which carries or conveys passengers along, around, or over a fixed or restricted route or course or allows the passenger to steer or guide it within an established area for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. "Amusement ride" includes:
(i) any water-based recreational attraction, including all water slides, wave pools, and water parks; and
(ii) typical rides, including roller coasters, whips, ferris wheels, and merry-go-rounds.
(c) "Intoxicated" means a person is under the influence of alcohol, a controlled substance, or any substance having the property of releasing toxic vapors, to a degree that the person may endanger himself or another, in a public place or in a private place where he unreasonably disturbs other persons.
(d) "Operator" means any person, firm, or corporation that owns, leases, manages, or operates an amusement park or amusement ride and all employees and agents of the amusement park.
(e) "Rider" means any person who is:
(i) waiting in the immediate vicinity of an amusement ride in order to get on the ride;
(ii) in the process of leaving the ride but remains in its immediate vicinity; or
(iii) a passenger or participant on an amusement ride.
(2) An amusement park shall inform riders in writing, where appropriate, of the nature of the ride, including factors which would assist riders in determining whether they should participate in the ride activity and the rules concerning conduct on each ride. Information concerning the rules of conduct may be given verbally at the beginning of each ride segment or posted in writing conspicuously at the entrance to each ride.
(3) Riders are responsible for obeying the posted rules and verbal instructions of the amusement ride operator.
(4) A rider may not:
(a) board or dismount from an amusement ride except at a designated area;
(b) board an amusement ride if he has a physical condition that may be aggravated by participation on the ride;
(c) disconnect, disable, or attempt to disconnect or disable, any safety device, seat belt, harness, or other restraining device before, during, or after movement of the amusement ride has started except at the express instruction of the operator;
(d) throw or expel any object from an amusement ride;
(e) act in any manner contrary to posted or oral rules while boarding, riding, or dismounting from an amusement ride; or
(f) engage in any reckless act or activity which may injure himself or others.
(5) A rider may not board or attempt to board any amusement ride if he is intoxicated.
(a) An operator of an amusement park ride may prevent a rider who is perceptibly or apparently intoxicated from boarding an amusement ride.
(b) An operator who prevents a rider from boarding an amusement ride under this section is not criminally or civilly liable if the operator reasonably believes that the rider is intoxicated.
(6) An amusement park shall post signs and notices in conspicuous locations throughout the park informing riders of the importance of reporting all injuries sustained on amusement park premises. The signs shall contain the location where any injuries may be reported.
(7) A rider, or the parent or guardian of a minor rider on the minor's behalf, may report in writing to the amusement facility or its designated agent any injuries sustained on an amusement ride before leaving the amusement facility premises, unless the rider, or parent or guardian of a

minor rider, is unable to file a report because of the severity of the injuries to the rider. The report shall be filed as soon as reasonably possible and include:
(a) the name, address, and phone number of the injured person;
(b) if the injured person is a minor, the name, address, and phone number of the parent or guardian filing the report;
(c) a brief description of the incident causing the injury, including the location, date, and time of the injury;
(d) a description of the injury, including the cause, if known; and
(e) the name, address, and phone number of any known witnesses to the incident.
(8) The actions of any rider of sufficient age and knowledge to assume the inherent risks of an amusement ride who violates the provisions of Subsection (3), (4), or (5) may be considered by the court in a civil action brought by a rider against the amusement park operator for injuries sustained while at the amusement park for the purpose of allocating fault between the parties.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-508 Limitation on liability of hockey facilities.
(1) As used in this section, "hockey facility" means a facility where hockey is customarily played or practiced and the general public is charged an admission fee to attend.
(2) The owner or operator of a hockey facility is not liable for any injury to the person or property of any person as a result of that person being hit by a hockey puck or stick unless:
(a) the person is situated completely behind a board, glass, or similar barrier and the board, glass, or barrier is defective; or
(b) the injury is caused by negligent or willful and wanton conduct in connection with the game of hockey by the owner or operator or any hockey player, coach, or manager employed by the owner or operator.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-509 Inherent risks of certain recreational activities -- Claim barred against county or municipality -- No effect on duty or liability of person participating in recreational activity or other person.
(1) As used in this section:
(a) "Inherent risks" means any danger, condition, and potential for personal injury or property damage that is an integral and natural part of participating in a recreational activity.
(b) "Municipality" means the same as that term is defined in Section 10-1-104.
(c) "Person" means:
(i) an individual, regardless of age, maturity, ability, capability, or experience; and
(ii) a corporation, partnership, limited liability company, or any other form of business enterprise.
(d) "Recreational activity" includes a rodeo, an equestrian activity, skateboarding, skydiving, para gliding, hang gliding, roller skating, ice skating, fishing, hiking, walking, running, jogging, bike riding, scooter riding, or in-line skating on property:
(i) owned, leased, or rented by, or otherwise made available to:
(A) with respect to a claim against a county, the county; and
(B) with respect to a claim against a municipality, the municipality; and
(ii) intended for the specific use in question.

(2) Notwithstanding Sections 78B-5-817 through 78B-5-823, no person may make a claim against or recover from any of the following entities for personal injury or property damage resulting from any of the inherent risks of participating in a recreational activity:
  (a) a county, municipality, special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or special service district under Title 17D, Chapter 1, Special Service District Act; or
  (b) the owner of property that is leased, rented, or otherwise made available to a county, municipality, special district, or special service district for the purpose of providing or operating a recreational activity.
(3)
  (a) Nothing in this section may be construed to relieve a person participating in a recreational activity from an obligation that the person would have in the absence of this section to exercise due care or from the legal consequences of a failure to exercise due care.
  (b) Nothing in this section may be construed to relieve any other person from an obligation that the person would have in the absence of this section to exercise due care or from the legal consequences of a failure to exercise due care.

Amended by Chapter 16, 2023 General Session

78B-4-510 Affirmative defense for liquified petroleum gas industry.
(1) In any action for damages for personal injury, death, or property damage in which a seller, supplier, installer, handler, or transporter of liquified petroleum gas is named as a defendant, it shall be an affirmative defense to liability that:
  (a) the equipment or appliance which caused the damage was altered or modified without the consent or knowledge of the seller, supplier, installer, handler, or transporter; or
  (b) the equipment or appliance was used in a manner or for a purpose other than that for which it was intended.
(2) There is a rebuttable presumption that a seller, supplier, installer, handler, or transporter of liquified petroleum gas and the necessary equipment and appliances, licensed in accordance with Title 53, Chapter 7, Part 3, Liquefied Petroleum Gas Act, has followed all applicable standards and procedures established by the Liquified Petroleum Gas Board.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-511 Regulation of firearms reserved to state -- Lawsuits prohibited.
(1) As prescribed by Section 53-5a-102, all authority to regulate firearms is reserved to the state through the Legislature.
(2) A person who lawfully designs, manufactures, markets, advertises, transports, or sells firearms or ammunition to the public may not be sued by the state or any of its political subdivisions for the subsequent use, whether lawfully or unlawfully, of the firearm or ammunition, unless the suit is based on the breach of a contract or warranty for a firearm or ammunition purchased by the state or political subdivision.

Amended by Chapter 173, 2025 General Session
Amended by Chapter 208, 2025 General Session

78B-4-512 Definitions -- Participation in an agritourism activity -- Limitations on civil liability -- Signage requirement.

(1) As used in this section:
(a) "Agricultural enterprise" means a farm, ranch, or other agricultural, aquacultural, horticultural, or forestry operation.
(b) "Agritourism" means the combination of agricultural production with tourism to attract participants from the general public to an agricultural enterprise for the entertainment, recreation, or education of the participants.
(c) "Agritourism activity" means an activity at an agricultural enterprise that a participant engages in or observes for recreation, education, or entertainment.
(d) "Inherent risk of an agritourism activity" means a danger, hazard, or condition that is part of an agritourism activity, including:
(i) surface and subsurface conditions of land, vegetation, or water on the property;
(ii) unpredictable behavior of domesticated or farm animals on the property;
(iii) reasonable dangers of structures or equipment ordinarily used where agricultural or horticultural crops are grown or farm animals or farmed fish are raised;
(iv) behavior of insects or wildlife not owned or kept by the operator of the property;
(v) exposure to pathogens from animals, animal feed, animal waste, or other sources; or
(vi) negligent behavior by an individual other than the operator.
(e) "Operator" means:
(i) a person who owns or manages an agricultural enterprise where a participant engages in or observes an agritourism activity;
(ii) a person who provides an agritourism activity at an agricultural enterprise; or
(iii) an employee of a person described in Subsection (1)(e)(i) or (ii).
(f)
(i) "Participant" means an individual, other than an operator, who engages in or observes an agritourism activity, regardless of whether the individual pays to engage in or observe the agritourism activity.
(ii) "Participant" does not mean an individual who is paid to participate in an agritourism activity.
(g) "Property" means the real property where an agritourism activity takes place.
(2)
(a) Except as provided in Subsection (3), an operator may not be liable for an injury, illness, death, or damage to personal property of a participant that results from an inherent risk of an agritourism activity if the operator posts the signage described in Subsection (5).
(b) An operator is not required to eliminate an inherent risk of an agritourism activity at the operator's agritourism activity.
(3) Nothing in Subsection (2):
(a) limits the liability of an operator if the operator:
(i) acts or omits an act in gross negligence or willful or wanton disregard for the safety of a participant that proximately causes injury, illness, death, or damage to personal property of a participant;
(ii) has actual knowledge or reasonably should have known of a dangerous condition on the land, facilities, or equipment used in the agritourism activity that proximately causes injury, illness, death, or damage to personal property of a participant;
(iii) has actual knowledge or reasonably should have known of the dangerous propensity of an animal used in an agritourism activity and does not make the danger known to the participant, and the danger proximately causes injury, illness, death, or damage to personal property of a participant; or
(iv) intentionally injures the participant;
(b) prevents or limits the liability of an operator under a product liability law; or

(c) negates assumption of risk as an affirmative defense.
(4) A limitation on legal liability afforded to an operator under Subsection (2) is in addition to any limitation of legal liability otherwise provided by law.
(5) An operator shall post and maintain, in a clearly visible location at each entrance to the property where an agritourism activity takes place or at the location of each agritourism activity, a sign that:
(a) is printed in black letters, that are a minimum of one inch in height, on a white background; and
(b) states, "WARNING: Under Utah law, an operator of an agritourism activity or the property where the activity takes place is not liable for the injury, illness, death, or damage to personal property of a participant that primarily results from the inherent risks of the activity or a participant's failure to follow instructions or exercise reasonable caution. You are assuming the risk of participating in or observing an agritourism activity."

Amended by Chapter 30, 2024 General Session

78B-4-513 Cause of action for defective construction.
(1) As used in this section:
(a) "Condominium" means a single unit in a multiunit project together with an undivided interest in common in the common areas and facilities of the condominium building.
(b) "Condominium developer" means a person that:
(i) acquires the land for building a condominium;
(ii) obtains financing for the construction of a condominium;
(iii) oversees the construction of the condominium; and
(iv) sells the condominium to a consumer.
(2) Except as provided in Subsection (3), an action for defective design or construction is limited to breach of the contract, whether written or otherwise, including both express and implied warranties.
(3) An action for defective design or construction may include damage to other property or physical personal injury if the damage or injury is caused by the defective design or construction.
(4) For purposes of Subsection (3), property damage does not include:
(a) the failure of construction to function as designed; or
(b) diminution of the value of the constructed property because of the defective design or construction.
(5) Except as provided in Subsections (3) and(7), only a person in privity of contract with the original contractor, architect, engineer, or the real estate developer may bring an action for defective design or construction.
(6) If a person in privity of contract sues for defective design or construction under this section, nothing in this section precludes the person from bringing, in the same suit, another cause of action to which the person is entitled based on an intentional or willful breach of a duty existing in law.
(7) Nothing in this section precludes:
(a) a person from assigning a right under a contract to another person, including to a subsequent owner or a homeowners association; or
(b) a government agency from bringing an enforcement action in accordance with any other statute for matters involving defective construction.
(8)

(a) Before bringing an action against a condominium developer for defective design or construction, a condominium owner shall provide written notice:
(i) describing the defective design or construction; and
(ii) requesting that the condominium developer make all necessary repairs to fix the defective design or construction.
(b) A condominium developer, upon receiving a notice described in Subsection (8)(a), shall make all reasonable repairs requested in the notice.
(c) If the condominium developer does not complete the repairs described in the notice in Subsection (8)(b) within nine months after the day on which the condominium owner provides the notice described in Subsection (8)(a), the condominium owner may bring an action against the condominium developer for defective design or construction.
(9) A condominium owner may not bring an action against the condominium's developer for defective design or construction before the condominium owner provides the notice described in Subsection (8)(a) and the developer fails to comply with Subsection (8)(c).

Amended by Chapter 442, 2025 General Session
Amended by Chapter 453, 2025 General Session

78B-4-514 Definitions -- Immunity for architects and engineers during emergencies.
(1) As used in this section:
(a) "Architect" means a person licensed in accordance with Title 58, Chapter 3a, Architects Licensing Act.
(b) "Declared state of emergency" means a state of emergency declared by the governor of this state or by the chief executive officer of a political subdivision, in accordance with Title 53, Chapter 2a, Emergency Management Act.
(c) "Professional engineer" means a person licensed in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.
(d) "Public official" means an appointed or elected federal, state, or local official, including building inspectors and police and fire chiefs, acting within the scope and jurisdiction of the official's authority during a declared emergency.
(2) An architect or professional engineer, acting in good faith and within the scope of his or her respective license, is not liable for:
(a) any acts, errors, or omissions; or
(b) personal injury, wrongful death, property damage, or any other loss arising from architectural or engineering services provided by the architect or engineer:
(i) as a non-paid volunteer at the request of a public official; and
(ii) during, or for 90 days following, a declared state of emergency.
(3) Nothing in Subsection (2) shall be construed to provide immunity to an architect or engineer for architectural or engineering services that are not within the scope of licensure.

Amended by Chapter 258, 2015 General Session

78B-4-515 Limitation on liability for greenhouse gases.
(1) "Greenhouse gas" means water vapor, carbon dioxide, methane, nitrous oxide, ozone, and chlorofluorocarbons.
(2) A person residing or doing business in this state may not be held liable for damage or injury to another arising out of any actual or potential effect on climate caused by contributions to

emissions of greenhouse gases unless it can be proved by clear and convincing evidence that the person has:
(a) violated an enforceable statutory limitation or restriction against emissions of a specific greenhouse gas originating within this state; or
(b) violated the express terms of a valid, enforceable operating, air, or other permit issued by a state or federal regulatory agency that has jurisdiction over the greenhouse gas emissions of the person or business.
(3) The person bringing the action shall:
(a) specify each greenhouse gas emitted by the defendant which is asserted to give rise to the cause of action; and
(b) show by clear and convincing evidence that unavoidable and identifiable damage or injury has resulted or will result as a direct cause of the defendant's violation of statutory and permitting limits.

Amended by Chapter 340, 2011 General Session

78B-4-516 Immunity for providing assistance in a suicide emergency.
(1) As used in this section:
(a) "Emergency care" means assistance or advice offered to avoid, mitigate, or attempt to mitigate the effects of a suicide emergency.
(b) "Suicide emergency" means an occurrence that reasonably indicates an individual is at risk of dying or attempting to die by suicide.
(2) A person who provides emergency care at or near the scene of, or during, a suicide emergency, gratuitously and in good faith, is not liable for any civil damages or penalties as a result of any act or omission by the person providing the emergency care, unless the person is grossly negligent or caused the suicide emergency.

Enacted by Chapter 447, 2019 General Session

78B-4-517 Immunity related to COVID-19.
(1) As used in this section:
(a) "COVID-19" means:
(i) severe acute respiratory syndrome coronavirus 2; or
(ii) the disease caused by severe acute respiratory syndrome coronavirus 2.
(b) "Person" means the same as that term is defined in Section 68-3-12.5.
(c) "Premises" means real property and any appurtenant building or structure.
(2) Subject to the other provisions of this section, a person is immune from civil liability for damages or an injury resulting from exposure of an individual to COVID-19 on the premises owned or operated by the person, or during an activity managed by the person. Immunity as described in this Subsection (2) does not apply to:
(a) willful misconduct;
(b) reckless infliction of harm; or
(c) intentional infliction of harm.
(3) This section does not modify the application of:
(a) Title 34A, Chapter 2, Workers' Compensation Act;
(b) Title 34A, Chapter 3, Utah Occupational Disease Act; or
(c) Title 34A, Chapter 6, Utah Occupational Safety and Health Act.

(4) The immunity in Subsection (2) is in addition to any other immunity protections that may apply in state or federal law.

Amended by Chapter 10, 2020 Special Session 5

78B-4-518 Limitation on liability of employer for employee convicted of offense.

(1) As used in this section:
(a)
(i) Except as provided in Subsection (1)(a)(ii), "employee" means an individual whom an employer hired for compensation to perform services.
(ii) "Employee" does not include an independent contractor as defined in Subsection 34A-2-103(2)(b).
(b) "Employer" means a person, including the state and any political subdivision of the state, that employs one or more employees and is engaged in an industry or business related to:
(i) automotive repair and maintenance;
(ii) construction;
(iii) culinary arts;
(iv) manufacturing;
(v) oil, gas, or mining;
(vi) retail sale of goods or services; or
(vii) transportation of freight, merchandise, or other property by a commercial vehicle.
(2) A cause of action may not be brought against an employer for negligently hiring an employee based solely on evidence that the employee has been previously convicted in this state or in another jurisdiction of an offense.
(3) Subsection (2) does not preclude a cause of action for negligent hiring of an employee if the employer knew, or should have known, about the employee's prior conviction and due to the employee's prior conviction:
(a) the employer violated state or federal law by hiring or continuing to employ the employee; or
(b) the employer's hiring of the employee constitutes willful misconduct or gross negligence.
(4) The protections provided to an employer under this section do not apply in a cause of action concerning the misuse of funds or property of a person other than the employer if:
(a) on the date that the employee was hired by the employer, the employee had been previously convicted of an offense that includes fraud or the misuse of funds as an element of the offense; and
(b) it was foreseeable that the position for which the employee was hired would involve duties in managing funds or property.
(5) Section 63G-7-301 does not waive any immunity provided under this section for an employer that is a governmental entity or an employee of a governmental entity as those terms are defined in Section 63G-7-102.
(6) This section does not:
(a) create a cause of action; or
(b) expand an existing cause of action.

Enacted by Chapter 423, 2022 General Session
Sunset by Section 63I-1-278

Part 6
Successor Corporation Asbestos-Related Liability Act

78B-4-601 Title.

This part is known as the "Successor Corporation Asbestos-Related Liability Act."

Enacted by Chapter 237, 2012 General Session

78B-4-602 Definitions.

As used in this part:

(1) "Asbestos claim" means a claim, wherever or whenever made, for damages, losses, indemnification, contribution, or other relief arising out of, based on, or in any way related to asbestos, including:
  (a) the health effects of exposure to asbestos, including a claim for:
    (i) personal injury or death;
    (ii) mental or emotional injury;
    (iii) risk of disease or other injury; or
    (iv) the costs of medical monitoring or surveillance;
  (b) a claim made by or on behalf of a person exposed to asbestos, or a representative, spouse, parent, child, or other relative of the person; and
  (c) a claim for damage or loss caused by the installation, presence, or removal of asbestos.

(2) "Corporation" means a corporation for profit, including a domestic corporation organized under the laws of this state or a foreign corporation organized under laws other than this state.

(3) "Successor" means a corporation that:
  (a)
    (i) assumes or incurs or has assumed or incurred successor asbestos-related liability;
    (ii) is the successor corporation after a merger or consolidation; and
    (iii) became a successor before January 1, 1972; or
  (b) is a successor corporation of a corporation described in Subsection (3)(a).

(4)
  (a) "Successor asbestos-related liability" means liability:
    (i) whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due;
    (ii) that is related in any way to an asbestos claim; and
    (iii)
      (A) is assumed or incurred by a corporation as a result of or in connection with a merger or consolidation, or the plan of merger or consolidation related to the merger or consolidation with or into another corporation; or
      (B) that is related in any way to an asbestos claim based on the exercise of control or the ownership of stock of the corporation before the merger or consolidation.
  (b) "Successor asbestos-related liability" includes liability that, after the time of the merger or consolidation for which the fair market value of total gross assets is determined under Section 78B-4-605, was or is paid or otherwise discharged, or committed to be paid or otherwise discharged, by or on behalf of the corporation, or by a successor of the corporation, or by or on behalf of a transferor, in connection with a settlement, judgment, or other discharge in this state or another jurisdiction.

(5) "Transferor" means a corporation from which successor asbestos-related liability is or was assumed or incurred.

Enacted by Chapter 237, 2012 General Session

78B-4-603 Applicability.

(1) The limitations in Section 78B-4-604 apply to a successor.

(2) The limitations in Section 78B-4-604 do not apply to:

(a) workers' compensation benefits paid by or on behalf of an employer to an employee under Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or a comparable workers' compensation law of another jurisdiction;

(b) a claim against a corporation that does not constitute a successor asbestos-related liability;

(c) an obligation under the National Labor Relations Act, 29 U.S.C. Sec. 151, et seq., as amended, or under a collective bargaining agreement; or

(d) a successor that, after a merger or consolidation, continued in the business of:

(i) mining asbestos;

(ii) selling or distributing asbestos fibers; or

(iii) manufacturing, distributing, removing, or installing asbestos-containing products that were the same or substantially the same as those products previously manufactured, distributed, removed, or installed by the transferor.

Enacted by Chapter 237, 2012 General Session

78B-4-604 Measure of liabilities.

(1) Except as further limited in Subsection (2), the cumulative successor asbestos-related liability of a successor is limited to the fair market value of the total gross assets of the transferor determined as of the time of the merger or consolidation. A successor does not have responsibility for successor asbestos-related liability in excess of this limitation.

(2) If the transferor had assumed or incurred successor asbestos-related liability in connection with a prior merger or consolidation with a prior transferor, the fair market value of the total assets of the prior transferor determined as of the time of the earlier merger or consolidation shall be substituted for the limitation set forth in Subsection (1) for purposes of determining the limitation of liability of a successor.

Enacted by Chapter 237, 2012 General Session

78B-4-605 Establishing fair market value of total gross assets.

(1) A successor may establish the fair market value of total gross assets for the purpose of the limitations under Section 78B-4-604 through any method reasonable under the circumstances, including:

(a) by reference to the going concern value of the assets or to the purchase price attributable to or paid for the assets in an arms-length transaction; or

(b) in the absence of other readily available information from which the fair market value can be determined, by reference to the value of the assets recorded on a balance sheet.

(2) Total gross assets include intangible assets.

(3)

(a) To the extent total gross assets include any liability insurance that was issued to the transferor whose assets are being valued for purposes of this section, the applicability, terms,

conditions, and limits of the insurance may not be affected by this section, nor shall this section otherwise affect the rights and obligations of an insurer, transferor, or successor under any insurance contract or related agreement including:

(i) preenactment settlements resolving coverage-related disputes; and

(ii) the rights of an insurer to seek payment of applicable deductibles, restrospective premiums, or self-insured retentions or to seek contribution from a successor for uninsured or self-insured periods or periods when insurance is uncollectible or otherwise unavailable.

(b) Without limiting Subsection (3)(a), to the extent total gross assets include liability insurance, a settlement, or a dispute concerning the liability insurance coverage entered into by a transferor or successor with the insurers of the transferor before May 8, 2012, shall be determinative of the total coverage of the liability insurance to be included in the calculation of the transferor's total gross assets.

Enacted by Chapter 237, 2012 General Session

78B-4-606 Adjustment.

(1) Subject to Subsections (2) through (4), the fair market value of total gross assets at the time of the merger or consolidation shall increase annually at a rate equal to the sum of:

(a) the prime rate as listed in the first edition of the Wall Street Journal published for each calendar year since the merger or consolidation, unless the prime rate is not published in that edition of the Wall Street Journal, in which case any reasonable determination of the prime rate on the first day of the calendar year may be used; and

(b) 1%.

(2) The rate found in Subsection (1) may not be compounded.

(3) The adjustment of the fair market value of total gross assets shall continue as provided in Subsection (1) until the date the adjusted value is first exceeded by the cumulative amounts of successor asbestos-related liability paid or committed to be paid by or on behalf of the successor corporation or a predecessor or by or on behalf of a transferor after the time of the merger or consolidation for which the fair market value of total gross assets is determined.

(4) An adjustment of the fair market value of total gross assets may not be applied to any liability insurance that may be included in the definition of total gross assets by Subsection 78B-4-605(3).

Enacted by Chapter 237, 2012 General Session

78B-4-607 Scope.

(1) Courts of this state shall construe this part liberally with regard to successors.

(2) This part shall apply to an asbestos claim filed against a successor on or after May 8, 2012. This part shall apply to a pending asbestos claim against a successor in which trial has not commenced as of May 8, 2012, except that any provision of this part that would be unconstitutional if applied retroactively shall be applied prospectively.

Enacted by Chapter 237, 2012 General Session

Part 7
Cybersecurity Affirmative Defense Act

78B-4-701 Definitions.

As used in this part:

(1) "Breach of system security" means the same as that term is defined in Section 13-44-102.

(2) "NIST" means the National Institute for Standards and Technology in the United States Department of Commerce.

(3) "PCI data security standard" means the Payment Card Industry Data Security Standard.

(4)

(a) "Person" means:

(i) an individual;

(ii) an association;

(iii) a corporation;

(iv) a joint stock company;

(v) a partnership;

(vi) a business trust; or

(vii) any unincorporated organization.

(b) "Person" includes a financial institution organized, chartered, or holding a license authorizing operation under the laws of this state, another state, or another country.

(5) "Personal information" means the same as that term is defined in Section 13-44-102.

Enacted by Chapter 40, 2021 General Session

78B-4-702 Affirmative defense for a breach of system security.

(1) A person that creates, maintains, and reasonably complies with a written cybersecurity program that meets the requirements of Subsection (4), and is in place at the time of a breach of system security of the person, has an affirmative defense to a claim that:

(a) is brought under the laws of this state or in the courts of this state; and

(b) alleges that the person failed to implement reasonable information security controls that resulted in the breach of system security.

(2) A person has an affirmative defense to a claim that the person failed to appropriately respond to a breach of system security if:

(a) the person creates, maintains, and reasonably complies with a written cybersecurity program that meets the requirements of Subsection (4) and is in place at the time of the breach of system security; and

(b) the written cybersecurity program had protocols at the time of the breach of system security for responding to a breach of system security that reasonably complied with the written cybersecurity program under Subsection (2)(a) and the person followed the protocols.

(3) A person has an affirmative defense to a claim that the person failed to appropriately notify an individual whose personal information was compromised in a breach of system security if:

(a) the person creates, maintains, and reasonably complies with a written cybersecurity program that meets the requirements of Subsection (4) and is in place at the time of the breach of system security; and

(b) the written cybersecurity program had protocols at the time of the breach of system security for notifying an individual about a breach of system security that reasonably complied with the requirements for a written cybersecurity program under Subsection (3)(a) and the person followed the protocols.

(4) A written cybersecurity program described in Subsections (1), (2), and (3) shall provide administrative, technical, and physical safeguards to protect personal information, including:

(a) being designed to:
(i) protect the security, confidentiality, and integrity of personal information;
(ii) protect against any anticipated threat or hazard to the security, confidentiality, or integrity of personal information; and
(iii) protect against a breach of system security;
(b) reasonably conforming to a recognized cybersecurity framework as described in Subsection 78B-4-703(1); and
(c) being of an appropriate scale and scope in light of the following factors:
(i) the size and complexity of the person;
(ii) the nature and scope of the activities of the person;
(iii) the sensitivity of the information to be protected;
(iv) the cost and availability of tools to improve information security and reduce vulnerability; and
(v) the resources available to the person.

(5)
(a) Subject to Subsection (5)(b), a person may not claim an affirmative defense under Subsection (1), (2), or (3) if:
(i) the person had actual notice of a threat or hazard to the security, confidentiality, or integrity of personal information;
(ii) the person did not act in a reasonable amount of time to take known remedial efforts to protect the personal information against the threat or hazard; and
(iii) the threat or hazard resulted in the breach of system security.
(b) A risk assessment to improve the security, confidentiality, or integrity of personal information is not an actual notice of a threat or hazard to the security, confidentiality, or integrity of personal information.

Enacted by Chapter 40, 2021 General Session

78B-4-703 Components of a cybersecurity program eligible for an affirmative defense.

(1) Subject to Subsection (3), a person's written cybersecurity program reasonably conforms to a recognized cybersecurity framework if the written cybersecurity program:
(a) is designed to protect the type of personal information obtained in the breach of system security; and
(b)
(i) is a reasonable security program described in Subsection (2);
(ii) reasonably conforms to the current version of any of the following frameworks or publications, or any combination of the following frameworks or publications:
(A) NIST special publication 800-171;
(B) NIST special publications 800-53 and 800-53a;
(C) the Federal Risk and Authorization Management Program Security Assessment Framework;
(D) the Center for Internet Security Critical Security Controls for Effective Cyber Defense; or
(E) the International Organization for Standardization/International Electrotechnical Commission 27000 Family - Information security management systems;
(iii) for personal information obtained in the breach of the system security that is regulated by the federal government or state government, reasonably complies with the requirements of the regulation, including:

(A) the security requirements of the Health Insurance Portability and Accountability Act of 1996, as described in 45 C.F.R. Part 164, Subpart C;
(B) Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102, as amended;
(C) the Federal Information Security Modernization Act of 2014, Pub. L. No. 113-283;
(D) the Health Information Technology for Economic and Clinical Health Act, as provided in 45 C.F.R. Part 164;
(E) Title 13, Chapter 44, Protection of Personal Information Act; or
(F) any other applicable federal or state regulation; or
(iv) for personal information obtained in the breach of system security that is the type of information intended to be protected by the PCI data security standard, reasonably complies with the current version of the PCI data security standard.

(2) A written cybersecurity program is a reasonable security program under Subsection (1)(b)(i) if:
(a) the person coordinates, or designates an employee of the person to coordinate, a program that provides the administrative, technical, and physical safeguards described in Subsections 78B-4-702(4)(a) and (c);
(b) the program under Subsection (2)(a) has practices and procedures to detect, prevent, and respond to a breach of system security;
(c) the person, or an employee of the person, trains, and manages employees in the practices and procedures under Subsection (2)(b);
(d) the person, or an employee of the person, conducts risk assessments to test and monitor the practice and procedures under Subsection (2)(b), including risk assessments on:
(i) the network and software design for the person;
(ii) information processing, transmission, and storage of personal information; and
(iii) the storage and disposal of personal information; and
(e) the person adjusts the practices and procedures under Subsection (2)(b) in light of changes or new circumstances needed to protect the security, confidentiality, and integrity of personal information.

(3)
(a) If a recognized cybersecurity framework described in Subsection (1)(b)(ii) or (iv) is revised, a person with a written cybersecurity program that relies upon that recognized cybersecurity framework shall reasonably conform to the revised version of the framework no later than one year after the day in which the revised version of the framework is published.
(b) If a recognized cybersecurity framework described in Subsection (1)(b)(iii) is amended, a person with a written cybersecurity program that relies upon that recognized cybersecurity framework shall reasonably conform to the amended regulation of the framework in a reasonable amount of time, taking into consideration the urgency of the amendment in terms of:
(i) risks to the security of personal information;
(ii) the cost and effort of complying with the amended regulation; and
(iii) any other relevant factor.

Enacted by Chapter 40, 2021 General Session

78B-4-704 No cause of action.

This part may not be construed to create a private cause of action, including a class action, if a person fails to comply with a provision of this part.

Enacted by Chapter 40, 2021 General Session

78B-4-705 Choice of law.

A choice of law provision in an agreement that designates this state as the governing law shall apply this part, if applicable, to the fullest extent possible in a civil action brought against a person regardless of whether the civil action is brought in this state or another state.

Enacted by Chapter 40, 2021 General Session

78B-4-706 Severability clause.

If any provision of this part, or the application of any provision of this part to any person or circumstance, is held invalid, the remainder of this part shall be given effect without the invalid provision or application.

Enacted by Chapter 40, 2021 General Session

Part 8
Limitations on Liability for Winter Sports Activities

78B-4-801 Public policy.

The Legislature finds that:

(1) winter sports are practiced by a large number of residents of Utah and attracts a large number of nonresidents, significantly contributing to the economy of this state;

(2) Utah has hosted the 2002 Olympic and Paralympic Winter Games, is scheduled to host the 2034 Olympic and Paralympic Winter Games, and aspires to host future games;

(3) Utah has hosted annual national and international winter sports competitions including ski, snowboard, bobsled, skeleton, luge, speedskating and other ice sport national championships, world cups, world championships, and aspires to continue to host such competitions and to encourage residents of Utah to train for and participate in these events; and

(4) assuring the financial viability of a facility in which the state has invested to permit the teaching of, training in, recreational enjoyment of, and competition in winter sports benefits the residents of Utah and encourages residents of Utah to participate in and excel at winter sports.

Enacted by Chapter 511, 2025 General Session

78B-4-802 Definitions.

As used in this part:

(1) "Inherent risks of winter sports" means the dangers or conditions that are an integral part of recreational, competitive, or professional participation in winter sports, including:

(a) changing weather conditions;

(b) snow or ice conditions as the snow or ice conditions exist or may change, including hard pack, powder, packed powder, wind pack, corn, crust, slush, cut-up snow, or machine-made snow;

(c) the inherent danger in engaging in high-risk activities such as winter sports by means of natural or man-made terrain, jumps, ice or snow tracks, or other structures;

(d) surface or subsurface conditions, including bare spots, forest growth, rocks, stumps, streambeds, cliffs, trees, or other natural objects;

(e) variations or steepness in terrain, whether natural or as a result of slope design, snowmaking or grooming operations, or other terrain modifications, including:
(i) terrain parks;
(ii) terrain features, including jumps, rails, or fun boxes; or
(iii) all other constructed and natural features, including half pipes, quarter pipes, or freestyle-bump terrain;
(f) impact with lift towers, tracks, other structures, or their components, including signs, posts, fences or enclosures, hydrants, or water pipes;
(g) collisions with other participants, structures, equipment, natural features, or other objects;
(h) equipment failure or malfunction, unless the failure or malfunction is due to gross negligence or a failure to reasonably maintain the equipment;
(i) participation in, or practicing or training for, competitions or special events; and
(j) the failure of an individual to participate within that individual's own abilities.
(2) "Injury" means any personal injury or property damage or loss.
(3) "Winter sports" means:
(a) skiing and snowboarding, including alpine, nordic cross country, nordic jumping, freestyle, freeride, and biathlon;
(b) ice sports, including ice skating, speedskating, figure skating, hockey, and curling; or
(c) sliding sports, including bobsled, luge, skeleton, and tubing.
(4) "Winter sports area" means an area or facility that:
(a) is primarily dedicated to performing winter sports;
(b) was constructed by the state or a state agency, and was financed primarily with state funds; and
(c) was constructed for the purpose of serving as a facility for use in everyday winter sports training and regular events including an Olympic and Paralympic Winter Games.
(5)
(a) "Winter sports area operator" means a person that operates a winter sports area.
(b) "Winter sports area operator" includes an agent, an officer, an employee, or a representative of the person that operates a winter sports area.
(6) "Winter sports participant" means an individual present in a winter sports area for the purpose of engaging in winter sports.

Enacted by Chapter 511, 2025 General Session

78B-4-803 Bar against claim or recovery from operator for injury resulting from inherent risks of winter sports.

Notwithstanding Sections 78B-5-817 through 78B-5-823, a winter sports participant may not make any claim against, or recover from, a winter sports area operator for injury resulting from inherent risks of winter sports.

Enacted by Chapter 511, 2025 General Session

78B-4-804 Notice of inherent risks and limitations on liability.

(1) A winter sports area operator shall provide notice to winter sports participants that there are inherent risks of participating in winter sports and that the winter sports area operator is not liable for those risks.
(2) Notice shall be provided by:
(a) posting a sign in at least one prominent location within the winter sports area; or

(b) providing a document or release for the winter sports participant to sign.

(3) The notice provided by the sign or document shall be sufficient if it includes the definition of inherent risks of winter sports in Section 78B-4-802 and states that the winter sports area operator is not liable for those inherent risks.

Enacted by Chapter 511, 2025 General Session

78B-4-805 Liability agreements.

A winter sports participant may enter into an agreement with a winter sports area operator before an injury to:

(1) waive a claim that the winter sports participant is permitted to bring against a winter sports area operator; or

(2) release the winter sports area operator from a claim that the winter sports participant is permitted to bring under this part.

Enacted by Chapter 511, 2025 General Session

78B-4-806 Limitation on damages.

(1) Subject to adjustment under Subsection 63G-7-604(4), an action arising against a winter sports area operator for a claim not prohibited under this part, in which the winter sports participant, or a person authorized to bring a claim on behalf of the winter sports participant, recovers for an injury and is awarded noneconomic losses, the amount of the award for noneconomic losses may not exceed:

(a) $827,000 for one person in any one occurrence; and

(b) $3,329,100 for the aggregate amount of individual awards that may be awarded in relation to a single occurrence.

(2) The limits on an award for noneconomic losses described in Subsection (1) do not apply to an award:

(a) of punitive damages; or

(b) for a wrongful death action.

Enacted by Chapter 511, 2025 General Session