

Chapter 8 Miscellaneous

Part 2 Punitive Damages

78B-8-201 Basis for punitive damages awards -- Section inapplicable to DUI cases or providing illegal controlled substances -- Division of award with state -- Deposit of state judgment payments.

- (1)
- (a) Except as otherwise provided by statute, punitive damages may be awarded only if compensatory or general damages are awarded and it is established by clear and convincing evidence that the acts or omissions of the tortfeasor are the result of willful and malicious or intentionally fraudulent conduct, or conduct that manifests a knowing and reckless indifference toward, and a disregard of, the rights of others.
 - (b) The limitations, standards of evidence, and standards of conduct of Subsection (1)(a) do not apply to any claim for punitive damages arising out of the tortfeasor's:
 - (i) operation of a motor vehicle or motorboat while voluntarily intoxicated or under the influence of any drug or combination of alcohol and drugs as prohibited by Section 41-6a-502;
 - (ii) causing death of another person by providing or administering an illegal controlled substance to the person under Section 78B-3-801; or
 - (iii) providing an illegal controlled substance to any person in the chain of transfer that connects directly to a person who subsequently provided or administered the substance to a person whose death was caused in whole or in part by the substance.
 - (c) The award of a penalty under Section 78B-3-108 regarding shoplifting is not subject to the prior award of compensatory or general damages under Subsection (1)(a) whether or not restitution has been paid to the merchant prior to or as a part of a civil action under Section 78B-3-108.
- (2) Evidence of a party's wealth or financial condition shall be admissible only after a finding of liability for punitive damages has been made.
- (a) Discovery concerning a party's wealth or financial condition may only be allowed after the party seeking punitive damages has established a prima facie case on the record that an award of punitive damages is reasonably likely against the party about whom discovery is sought and, if disputed, the court is satisfied that the discovery is not sought for the purpose of harassment.
 - (b) Subsection (2)(a) does not apply to any claim for punitive damages arising out of the tortfeasor's:
 - (i) operation of a motor vehicle or motorboat while voluntarily intoxicated or under the influence of any drug or combination of alcohol and drugs as prohibited by Section 41-6a-502;
 - (ii) causing death of another person or causing a person to be addicted by providing or administering an illegal controlled substance to the person under Section 78B-3-801; or
 - (iii) providing an illegal controlled substance to any person in the chain of transfer that connects directly to a person who subsequently provided or administered the substance to a person whose death was caused in whole or in part by the substance.
- (3)
- (a) In any case where punitive damages are awarded, the court shall enter judgment as follows:
 - (i) for the first \$50,000, judgment shall be in favor of the injured party; and

- (ii) any amount in excess of \$50,000 shall be divided equally between the state and the injured party, and judgment to each entered accordingly.
- (b)
 - (i) The actual and bona fide attorney fees and costs incurred in obtaining and collecting the judgment for punitive damages shall be considered to have been incurred by the state and the injured party in proportion to the judgment entered in each party's behalf.
 - (A) The state and injured party shall be responsible for each one's proportionate share only.
 - (B) The state is liable to pay its proportionate share only to the extent it receives payment toward its judgment.
 - (ii) If the court awards attorney fees and costs to the injured party as a direct result of the punitive damage award, the state shall have a corresponding credit in a proportionate amount based on the amounts of the party's respective punitive damage judgments. This credit may be applied as an offset against the amount of attorney fees and costs charged to the state for obtaining the punitive damage judgment.
- (c) The state shall have all rights due a judgment creditor to collect the full amounts of both punitive damage judgments until the judgments are fully satisfied.
 - (i) Neither party is required to pursue collection.
 - (ii) In pursuing collection, the state may exercise any of its collection rights under Section 63A-3-301 et seq., Section 63A-3-502 et seq., and any other statutory provisions. Any amounts collected on these judgments by either party shall be held in trust and distributed as set forth in Subsection (3)(e).
- (d) Unless all affected parties, including the state, expressly agree otherwise, collection on the punitive damages judgment shall be deferred until all other judgments have been fully paid. Any payment by or on behalf of any judgment debtor, whether voluntary, by execution, or otherwise, shall be distributed and applied in the following order:
 - (i) to the judgment for compensatory damage and any applicable judgment for attorney fees and costs;
 - (ii) to the initial \$50,000 of the punitive damage judgment;
 - (iii) to any judgment for attorney fees and costs awarded as a direct result of the punitive damages; and
 - (iv) to the remaining judgments for punitive damages.
- (e) Any partial payments shall be distributed equally between the state and injured party.
- (f) After the payment of attorney fees and costs, all amounts paid on the state's judgment shall be remitted:
 - (i) for an amount received on or before May 11, 2025, to the state treasurer to be deposited into the General Fund; and
 - (ii) for an amount received after May 11, 2025, to the state treasurer to be deposited into the Victims Services Restricted Fund established in Section 63M-7-219.

Amended by Chapter 211, 2025 General Session

78B-8-202 Punitive damages -- Notification procedure.

- (1) Whenever it appears from a return of a jury verdict in any court jury trial or from entry of a finding or order in any court bench trial, that punitive damages have been awarded to the plaintiff in a court action, the clerk of the court shall immediately notify the attorney general and state treasurer of the verdict, finding, or order. The notice shall contain:
 - (a) the names of both parties to the action, and their attorneys;
 - (b) the case number; and

- (c) the location of the court.
- (2) In addition to the notice required in Subsection (1) of this section, the clerk of the court shall notify the attorney general and the state treasurer within five days after entry of a judgment award of punitive damages. The notice shall contain:
 - (a) the name of the party and his attorney, against whom the judgment was ordered;
 - (b) the amount of the judgment; and
 - (c) the date on which the judgment was entered.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-203 Drug exception.

- (1) Punitive damages may not be awarded if a drug causing the claimant's harm:
 - (a) received premarket approval or licensure by the Federal Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 301 et seq. or the Public Health Service Act, 42 U.S.C. Section 201 et seq.;
 - (b) is generally recognized as safe and effective under conditions established by the Federal Food and Drug Administration and applicable regulations, including packaging and labeling regulations.
- (2) This limitation on liability for punitive damages does not apply if it is shown by clear and convincing evidence that the drug manufacturer knowingly withheld or misrepresented information required to be submitted to the Federal Food and Drug Administration under its regulations, which information was material and relevant to the claimant's harm.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 3

Process Server Act

78B-8-301 Title.

This part is known as the "Process Server Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-302 Process servers.

- (1) A complaint, a summons, or a subpoena may be served by an individual who is:
 - (a) 18 years old or older at the time of service; and
 - (b) not a party to the action or a party's attorney.
- (2) Except as provided in Subsection (5), the following may serve all process issued by the courts of this state:
 - (a) a peace officer employed by a political subdivision of the state acting within the scope and jurisdiction of the peace officer's employment;
 - (b) a sheriff or appointed deputy sheriff employed by a county of the state;
 - (c) a constable, or the constable's deputy, serving in compliance with applicable law;
 - (d) an investigator employed by the state and authorized by law to serve civil process; or
 - (e) a private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act.

- (3) A private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act, may not make an arrest pursuant to a bench warrant.
- (4) While serving process, a private investigator shall:
 - (a) have on the investigator's body a visible form of credentials and identification identifying:
 - (i) the investigator's name;
 - (ii) that the investigator is a licensed private investigator; and
 - (iii) the name and address of the agency employing the investigator or, if the investigator is self-employed, the address of the investigator's place of business;
 - (b) verbally communicate to the person being served that the investigator is acting as a process server; and
 - (c) print on the first page of each document served:
 - (i) the investigator's name and identification number as a private investigator; and
 - (ii) the address and phone number for the investigator's place of business.
- (5) The following may only serve process under this section when the use of force is authorized on the face of the document, or when a breach of the peace is imminent or likely under the totality of the circumstances:
 - (a) a law enforcement officer, as defined in Section 53-13-103; or
 - (b) a special function officer, as defined in Section 53-13-105, who is:
 - (i) employed as an appointed deputy sheriff by a county of the state; or
 - (ii) a constable.
- (6) The following may not serve process issued by a court:
 - (a) an individual convicted of a felony violation of an offense that would result in the individual being a sex offender under Subsection 53-29-202(2)(b); or
 - (b) an individual who is a respondent in a proceeding described in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions, in which a court has granted the petitioner a protective order.
- (7) An individual serving process shall:
 - (a) legibly document the date and time of service on the front page of the document being served;
 - (b) legibly print the process server's name, address, and telephone number on the return of service;
 - (c) sign the return of service in substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act;
 - (d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the badge number of the process server on the return of service; and
 - (e) if the process server is a private investigator, legibly print the private investigator's identification number on the return of service.

Amended by Chapter 291, 2025 General Session

78B-8-303 Recoverable rates.

If the rates charged by private process servers exceed the rates established by law for service of process by persons under Subsection 78B-8-302(1), the excess charge may be recovered as costs of an action only if the court determines the service and charge were justifiable under the circumstances.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-304 Violations of service of process authority.

- (1) It is a class A misdemeanor for a person serving process to falsify a return of service.
- (2) It is an infraction for a person to bill falsely for process service.

Amended by Chapter 303, 2016 General Session

Part 4

Disease Testing for Peace Officers, Health Care Providers, and Volunteers

78B-8-401 Definitions.

As used in this part:

- (1) "Blood or contaminated body fluids" includes blood, saliva, amniotic fluid, pericardial fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, and vaginal secretions, and any body fluid visibly contaminated with blood.
- (2) "COVID-19" means the same as that term is defined in Section 78B-4-517.
- (3) "Disease" means Human Immunodeficiency Virus infection, acute or chronic Hepatitis B infection, Hepatitis C infection, COVID-19 or another infectious disease that may cause Severe Acute Respiratory Syndrome, and any other infectious disease specifically designated by the Labor Commission, in consultation with the Department of Health and Human Services, for the purposes of this part.
- (4) "Emergency services provider" means:
 - (a) an individual licensed under Section 53-2d-402, a peace officer, local fire department personnel, or personnel employed by the Department of Corrections or by a county jail, who provide prehospital emergency care for an emergency services provider either as an employee or as a volunteer; or
 - (b) an individual who provides for the care, control, support, or transport of a prisoner.
- (5) "First aid volunteer" means a person who provides voluntary emergency assistance or first aid medical care to an injured person prior to the arrival of an emergency medical services provider or peace officer.
- (6) "Health care provider" means the same as that term is defined in Section 78B-3-403.
- (7) "Medical testing procedure" means a nasopharyngeal swab, a nasal swab, a capillary blood sample, a saliva test, or a blood draw.
- (8) "Peace officer" means the same as that term is defined in Section 53-1-102.
- (9) "Prisoner" means the same as that term is defined in Section 76-5-101.
- (10) "Significant exposure" and "significantly exposed" mean:
 - (a) exposure of the body of one individual to the blood or body fluids of another individual by:
 - (i) percutaneous injury, including a needle stick, cut with a sharp object or instrument, or a wound resulting from a human bite, scratch, or similar force; or
 - (ii) contact with an open wound, mucous membrane, or nonintact skin because of a cut, abrasion, dermatitis, or other damage;
 - (b) exposure of the body of one individual to the body fluids, including airborne droplets, of another individual if:
 - (i) the other individual displays symptoms known to be associated with COVID-19 or another infectious disease that may cause Severe Acute Respiratory Syndrome; or

- (ii) other evidence exists that would lead a reasonable person to believe that the other individual may be infected with COVID-19 or another infectious disease that may cause Severe Acute Respiratory Syndrome; or
- (c) exposure that occurs by any other method of transmission defined by the Labor Commission, in consultation with the Department of Health and Human Services, as a significant exposure.

Amended by Chapter 310, 2023 General Session

Amended by Chapter 330, 2023 General Session

78B-8-402 Petition -- Disease testing -- Notice -- Payment for testing.

- (1) An emergency services provider or first aid volunteer who is significantly exposed during the course of performing the emergency services provider's duties or during the course of performing emergency assistance or first aid, or a health care provider acting in the course and scope of the health care provider's duties as a health care provider may:
 - (a) request that the person to whom the emergency services provider, first aid volunteer, or health care provider was significantly exposed voluntarily submit to testing; or
 - (b) petition the district court or a magistrate for an order requiring that the person to whom the emergency services provider, first aid volunteer, or health care provider was significantly exposed submit to testing to determine the presence of a disease and that the results of that test be disclosed to the petitioner by the Department of Health and Human Services.
- (2)
 - (a) A law enforcement agency may submit on behalf of the petitioner by electronic or other means an ex parte request for a warrant ordering a medical testing procedure of the respondent.
 - (b) The court or magistrate shall issue a warrant ordering the respondent to submit to a medical testing procedure within two hours, and that reasonable force may be used, if necessary, if the court or magistrate finds that:
 - (i) the petitioner was significantly exposed during the course of performing the petitioner's duties as an emergency services provider, first aid volunteer, or health care provider;
 - (ii) the respondent refused to give consent to the medical testing procedure or is unable to give consent;
 - (iii) there may not be an opportunity to obtain a sample at a later date; and
 - (iv) a delay in administering available FDA-approved post-exposure treatment or prophylaxis could result in a lack of effectiveness of the treatment or prophylaxis.
 - (c)
 - (i) If the petitioner requests that the court order the respondent to submit to a blood draw, the petitioner shall request a person authorized under Section 41-6a-523 to perform the blood draw.
 - (ii) If the petitioner requests that the court order the respondent to submit to a medical testing procedure, other than a blood draw, the petitioner shall request that a qualified medical professional, including a physician, a physician's assistant, a registered nurse, a licensed practical nurse, or a paramedic, perform the medical testing procedure.
 - (d)
 - (i) A sample drawn in accordance with a warrant following an ex parte request shall be sent to the Department of Health and Human Services for testing.
 - (ii) If the Department of Health and Human Services is unable to perform a medical testing procedure ordered by the court under this section, a qualified medical laboratory may perform the medical testing procedure if:

- (A) the Department of Health and Human Services requests that the medical laboratory perform the medical testing procedure; and
 - (B) the result of the medical testing procedure is provided to the Department of Health and Human Services.
- (3) If a petitioner does not seek or obtain a warrant pursuant to Subsection (2), the petitioner may file a petition with the district court seeking an order to submit to testing and to disclose the results in accordance with this section.
- (4)
- (a) The petition described in Subsection (3) shall be accompanied by an affidavit in which the petitioner certifies that the petitioner has been significantly exposed to the individual who is the subject of the petition and describes that exposure.
 - (b) The petitioner shall submit to testing to determine the presence of a disease, when the petition is filed or within three days after the petition is filed.
- (5) The petitioner shall cause the petition required under this section to be served on the person who the petitioner is requesting to be tested in a manner that will best preserve the confidentiality of that person.
- (6)
- (a) The court shall set a time for a hearing on the matter within 10 days after the petition is filed and shall give the petitioner and the individual who is the subject of the petition notice of the hearing at least 72 hours prior to the hearing.
 - (b) The individual who is the subject of the petition shall also be notified that the individual may have an attorney present at the hearing and that the individual's attorney may examine and cross-examine witnesses.
 - (c) The hearing shall be conducted in camera.
- (7) The district court may enter an order requiring that an individual submit to testing, including a medical testing procedure, for a disease if the court finds probable cause to believe:
- (a) the petitioner was significantly exposed; and
 - (b) the exposure occurred during the course of the emergency services provider's duties, the provision of emergency assistance or first aid by a first aid volunteer, or the health care provider acting in the course and scope of the provider's duties as a health care provider.
- (8) The court may order that the use of reasonable force is permitted to complete an ordered test if the individual who is the subject of the petition is a prisoner.
- (9) The court may order that additional, follow-up testing be conducted and that the individual submit to that testing, as it determines to be necessary and appropriate.
- (10) The court is not required to order an individual to submit to a test under this section if it finds that there is a substantial reason, relating to the life or health of the individual, not to enter the order.
- (11)
- (a) Upon order of the district court that an individual submit to testing for a disease, that individual shall report to the designated local health department to provide the ordered specimen within five days after the day on which the court issues the order, and thereafter as designated by the court, or be held in contempt of court.
 - (b) The court shall send the order to the Department of Health and Human Services and to the local health department ordered to conduct or oversee the test.
 - (c) Notwithstanding the provisions of Section 26B-7-217, the Department of Health and Human Services and a local health department may disclose the test results pursuant to a court order as provided in this section.

- (d) Under this section, anonymous testing as provided under Section 26B-7-203 may not satisfy the requirements of the court order.
- (12) The local health department or the Department of Health and Human Services shall inform the subject of the petition and the petitioner of the results of the test and advise both parties that the test results are confidential. That information shall be maintained as confidential by all parties to the action.
- (13) The court, the court's personnel, the process server, the Department of Health and Human Services, local health department, and petitioner shall maintain confidentiality of the name and any other identifying information regarding the individual tested and the results of the test as they relate to that individual, except as specifically authorized by this chapter.
- (14)
- (a) Except as provided in Subsection (14)(b), the petitioner shall remit payment for each test performed in accordance with this section to the entity that performs the procedure.
- (b) If the petitioner is an emergency services provider, the agency that employs the emergency services provider shall remit payment for each test performed in accordance with this section to the entity that performs the procedure.
- (15) The entity that obtains a specimen for a test ordered under this section shall cause the specimen and the payment for the analysis of the specimen to be delivered to the Department of Health and Human Services for analysis.
- (16) If the individual is incarcerated, the incarcerating authority shall either obtain a specimen for a test ordered under this section or shall pay the expenses of having the specimen obtained by a qualified individual who is not employed by the incarcerating authority.
- (17) The ex parte request or petition shall be sealed upon filing and made accessible only to the petitioner, the subject of the petition, and their attorneys, upon court order.

Amended by Chapter 330, 2023 General Session

78B-8-403 Confidentiality -- Disclosure -- Penalty.

A person or entity entitled to receive confidential information under this part, other than the individual tested and identified in the information, who violates this part by releasing or making public that confidential information, or by otherwise breaching the confidentiality requirements of this part, is guilty of a class B misdemeanor.

Amended by Chapter 185, 2017 General Session

78B-8-404 Department authority -- Rules.

The Labor Commission, in consultation with the Department of Health and Human Services, has authority to establish rules necessary for the purposes of Subsections 78B-8-401(2) and (8).

Amended by Chapter 330, 2023 General Session

78B-8-405 Construction.

Nothing in this part may be construed as prohibiting a person from voluntarily consenting to the request of a health care provider to submit to testing following a significant exposure.

Amended by Chapter 185, 2017 General Session

Part 5

Small Business Equal Access to Justice Act

78B-8-501 Title.

This part is known as the "Small Business Equal Access to Justice Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-502 Legislative findings -- Purpose.

The Legislature finds that small businesses may be deterred from seeking review of or defending against substantially unjustified governmental action because of the expense involved in securing the vindication of their rights. The purpose of this part is to entitle small businesses, under conditions set forth in this act, to recover reasonable litigation expenses.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-503 Definitions.

As used in this part:

- (1) "Prevail" means to obtain favorable final judgment, the right to all appeals having been exhausted, on the merits, on substantially all counts or charges in the action and with respect to the most significant issue or set of issues presented, but does not include the settlement of any action, either by stipulation, consent decree or otherwise, whether or not settlement occurs before or after any hearing or trial.
- (2) "Reasonable litigation expenses" means court costs, administrative hearing costs, attorney fees, and witness fees of all necessary witnesses, not in excess of \$25,000 which a court finds were reasonably incurred in opposing action covered under this part.
- (3) "Small business" means a commercial or business entity, including a sole proprietorship, which does not have more than 250 employees, but does not include an entity which is a subsidiary or affiliate of another entity which is not a small business.
- (4) "State" means any department, board, institution, hospital, college, or university of the state of Utah or any political subdivision thereof, except with respect to actions brought under Title 76, Chapter 16, Part 5, Antitrust Offenses.

Amended by Chapter 173, 2025 General Session

78B-8-504 Litigation expense award authorized in actions by state.

In any civil judicial action commenced by the state, which involves the business regulatory functions of the state, a court may award reasonable litigation expenses to any small business which is a named party in the action if the small business prevails and the court finds that the state action was undertaken without substantial justification.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-505 Litigation expense award authorized in appeals from administrative decisions.

- (1) In any civil judicial appeal taken from an administrative decision regarding a matter in which the administrative action was commenced by the state, and which involves the business regulatory functions of the state, a court may award reasonable litigation expenses to any small business

which is a named party if the small business prevails in the appeal and the court finds that the state action was undertaken without substantial justification.

- (2) Any state agency or political subdivision may require by rule or ordinance that a small business exhaust administrative remedies prior to making a claim under this part.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-506 Payment of expenses awarded -- Statement required in agency's budget.

Expenses awarded under this part shall be paid from funds in the regular operating budget of the state entity. If sufficient funds are not available in the budget of the entity, the expenses shall be considered a claim governed by the provisions of Title 63G, Chapter 9, Board of Examiners Act. Every state entity against which litigation expenses have been awarded under this part shall, at the time of submission of its proposed budget, submit a report to the governmental body which appropriates its funds in which the amount of expenses awarded and paid under this act during the fiscal year is stated.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 6

Transportation of Forest Products or Native Vegetation

78B-8-601 Definitions.

For purposes of this part:

- (1) "Forest products" means any tree or portion thereof before it is manufactured into dimensional lumber, timbers, and ties, or mill peeled and made into power poles or house logs, including but not limited to coniferous and deciduous trees, Christmas trees, sawlogs, poles, posts, pulp logs, and fuelwood.
- (2) "Native vegetation" means all other forest, desert, or rangeland vegetation including but not limited to shrubs, flora, roots, bulbs, and seed.

Enacted by Chapter 3, 2008 General Session

78B-8-602 Proof of ownership required to harvest or transport forest products or native vegetation -- Requirements for proof of ownership.

- (1) It is unlawful for any person, firm, company, partnership, corporation, or business to harvest or transport timber, forest products, or other native vegetation without proof of ownership.
- (2) Proof of ownership requires possession of:
 - (a) a contract, permit, or other writing issued by the landowner or proper state or federal agency;
 - (b) a bill of sale, or other sales receipt;
 - (c) a bill of lading or product load receipt;
 - (d) a ticket issued by the seller authorizing harvesting or removal; or
 - (e) any other legal instrument.
- (3) The document required in Subsection (1) shall be issued by the landowner or proper state or federal agency and shall provide the following information:
 - (a) date of execution;

- (b) name and address of person authorized to harvest or transport the products, if different from the purchaser;
- (c) a legal or other sufficient description of the property from which the products are harvested or removed;
- (d) the estimated amount or volume, species, and other pertinent information regarding the products harvested or transported;
- (e) the delivery or scaling point;
- (f) the name and address of the purchaser of the products;
- (g) the name and address of the landowner, agency, or vendor; and
- (h) an expiration date.

Enacted by Chapter 3, 2008 General Session

78B-8-603 Transportation of forest products or native vegetation into or through the state.

Timber, forest products, or native vegetation transported into or through the state shall be accompanied by a shipping permit or proof of ownership.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-604 Enforcement.

Any law enforcement officer specified in Section 53-13-103, or ranger, or special agent of the United States Forest Service or the United States Bureau of Land Management may:

- (1) stop any vehicle or means of conveyance, including common carriers, containing timber, forest products, or native vegetation upon any road or highway of this state for the purpose of making an inspection and investigation but may not unduly detain a driver of such vehicle or means of conveyance;
- (2) inspect the timber, forest product, or native vegetation in any vehicle, or other means of conveyance, including common carrier, to determine whether the provisions of this chapter have been complied with;
- (3) seize and hold any timber, forest product, or native vegetation harvested, removed, or transported in violation of this part; and
- (4) sell or dispose of the timber, forest product, or native vegetation as provided by rule by the appropriate agency.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-605 Exemptions.

The provisions of this part do not apply to the transportation of:

- (1) wood chips, sawdust, and bark;
- (2) products transported by the owner of the property or his agent from which the products were removed; or
- (3) products for personal consumption incidental to camping and picnicking which is limited to the amount:
 - (a) needed for the duration of the picnic or campout; and
 - (b) used at the campsite.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-606 Violation as misdemeanor.

Violation of Sections 78B-8-602 through 78B-8-604 is a class B misdemeanor.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 7
Utah Alternative Dispute Process for ADA Complaints Act

78B-8-701 Definitions.

As used in this part:

- (1) "Americans with Disabilities Act" means the public accommodation protections of Title III of the Americans with Disabilities Act, 42 U.S.C. Secs. 12181 through 12189.
- (2) "Prospective defendant" means a person that is an owner, lessor, or operator of a public accommodation, or a designated agent of the owner, lessor, or operator for service of process.
- (3) "Prospective plaintiff" means an individual with a disability who may bring a cause of action under the Americans with Disabilities Act, 42 U.S.C. Sec. 12188.
- (4) "Public accommodation" means the same as that term is defined in 42 U.S.C. Sec. 12181.

Enacted by Chapter 133, 2020 General Session

78B-8-702 Notice of a violation.

- (1) Rather than file a civil action for an alleged violation of the Americans with Disabilities Act, a prospective plaintiff may notify the prospective defendant of the alleged violation.
- (2) A prospective defendant that receives notice of an alleged violation under Subsection (1) shall have a reasonable amount of time to remedy the alleged violation.
- (3) If a prospective defendant receives notice of an alleged violation in accordance with Subsection (1) and fails to remedy the alleged violation within a reasonable amount of time, a prospective plaintiff may provide the prospective defendant with written notice of the alleged violation.
- (4) A written notice under Subsection (3) shall include:
 - (a) the name and contact information of the prospective plaintiff, and if applicable, the prospective plaintiff's attorney;
 - (b) detailed information about the alleged violation of the Americans with Disabilities Act, including:
 - (i) a description of the alleged violation;
 - (ii) the date on which the alleged violation occurred or was encountered; and
 - (iii) the location of the alleged violation at the place of public accommodation;
 - (c) a statement that the prospective defendant has 90 days after the day on which the prospective defendant receives written notice to remedy the alleged violation;
 - (d) if possible, the name and contact information of an organization that can provide the prospective defendant with an inspection, reasonably priced or free of charge, to determine whether the public accommodation is in compliance with the Americans with Disabilities Act;
 - (e) a statement that the prospective defendant has 14 days after the day on which the prospective defendant receives the written notice to respond and indicate whether the prospective defendant will remedy the alleged violation;
 - (f) the amount of reasonable attorney fees and costs that the prospective defendant owes the prospective plaintiff under Subsection (7); and

- (g) an unsworn declaration stating that the prospective plaintiff provided the prospective defendant with the notice described in Subsection (1).
- (5) If a prospective plaintiff sends a written notice under Subsection (3), the prospective defendant shall be given 90 days after the day on which the prospective defendant receives the written notice to remedy any alleged violation in the written notice.
- (6)
 - (a) Except as provided in Subsection (6)(b), if a prospective plaintiff sends a written notice under Subsection (3), the prospective defendant shall obtain an inspection of the public accommodation to determine whether the place of public accommodation is in compliance with the Americans with Disabilities Act.
 - (b) If the prospective defendant is unable to obtain an inspection under Subsection (6)(a) for a reasonable price or free of charge, the prospective defendant is not required to obtain the inspection under this section.
 - (c) If the prospective defendant obtains an inspection, the prospective defendant is required to provide the prospective plaintiff with proof of an inspection but is not required to provide the prospective plaintiff with the results of that inspection.
- (7) A prospective plaintiff may demand no more than the cost of one hour of reasonable attorney fees from the prospective defendant in the written notice described in Subsection (4).
- (8) An unsworn declaration under this section shall conform to the requirements of Chapter 18a, Uniform Unsworn Declarations Act.

Enacted by Chapter 133, 2020 General Session

78B-8-703 Final warning of a violation.

- (1) A prospective plaintiff may provide a prospective defendant with a final warning of an alleged violation of the Americans with Disabilities Act if the prospective plaintiff provided the prospective defendant with notice of the alleged violation in accordance with Section 78B-8-702 and the prospective defendant failed to remedy the alleged violation within the 90-day period described in Section 78B-8-702.
- (2) A final warning under Subsection (1) shall include:
 - (a) a copy of the written notice and unsworn declaration described in Section 78B-8-702;
 - (b) a statement that the prospective defendant has 30 days after the day on which the final warning is received to remedy the alleged violation;
 - (c) a statement that the prospective defendant must provide the prospective plaintiff with proof that an inspection of the public accommodation has been conducted to determine whether the public accommodation is in compliance with the Americans with Disabilities Act and that the prospective defendant is responsible for the costs of the inspection;
 - (d) a statement that the prospective defendant has 14 days from the day on which the prospective defendant receives the final warning to respond and indicate whether the prospective defendant will remedy the alleged violation; and
 - (e) the amount of reasonable attorney fees and costs that the prospective defendant owes the prospective plaintiff under Subsection (5).
- (3) If a prospective plaintiff sends a final notice under Subsection (1), the prospective defendant shall be given 30 days after the day on which the prospective defendant receives the final warning to remedy an alleged violation.
- (4)

- (a) If a prospective plaintiff sends a final warning under this section, the prospective defendant shall obtain an inspection, at the prospective defendant's expense, to determine whether the public accommodation is in compliance with the Americans with Disabilities Act.
- (b) A prospective defendant is required to provide the prospective plaintiff with proof of the inspection described in Subsection (4)(a) but is not required to provide the prospective plaintiff with the results of that inspection.
- (5) A prospective plaintiff may demand no more than the cost of one hour of reasonable attorney fees from the prospective defendant in the final warning described in Subsection (2).

Enacted by Chapter 133, 2020 General Session

78B-8-704 Filing a civil action.

This part does not prevent a prospective plaintiff from seeking any available remedies for an alleged violation under the Americans with Disabilities Act.

Enacted by Chapter 133, 2020 General Session

78B-8-705 Severability.

- (1) If any provision of this part or the application of any part to any person or circumstance is held invalid by a court, the remainder of this part shall be given effect without the invalid provision or application.
- (2) The provisions of this part are severable.

Enacted by Chapter 133, 2020 General Session