

1 NUISANCE AMENDMENTS

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 Chief Sponsor: Gage Froerer

5 Senate Sponsor: Scott K. Jenkins

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7 LONG TITLE

8 General Description:

9 This bill clarifies language pertaining to nuisances.

10 Highlighted Provisions:

11 This bill:

12 ▶ makes clarifying amendments to language regarding manufacturing facilities as  
13 nuisances; and

14 ▶ makes technical corrections.

15 Money Appropriated in this Bill:

16 None

17 Other Special Clauses:

18 None

19 Utah Code Sections Affected:

20 AMENDS:

21 78B-6-1103, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

24 Section 1. Section 78B-6-1103 is amended to read:

25 78B-6-1103. **Manufacturing facility in operation over three years -- Limited**  
26 **application of restrictions.**

27 (1) Notwithstanding Sections 76-10-803 and 78B-6-1101, a manufacturing facility or  
28 operation may not be ~~[or become]~~ considered a nuisance, private or public, by virtue of any  
29 changed ~~[conditions in and about its location]~~ circumstance in land uses near the facility after it

30 has been in operation for more than three years if the manufacturing facility or operation was  
31 not a nuisance at the time it began operation. The manufacturing facility may not increase the  
32 condition asserted to be a nuisance. The provisions of this Subsection (1) do not apply if a  
33 nuisance results from the negligent or improper operation of a manufacturing facility.

34 (2) The provisions of Subsection (1) may not affect or defeat the right of any person to  
35 recover damages for any injuries or damage sustained because of any pollution of, or change in  
36 the condition of, the waters of any stream or the overflow of the lands of any person.

37 (3) Any and all ordinances now or ~~hereafter~~ in the future adopted by any county or  
38 municipal corporation in which ~~such~~ a manufacturing facility is located~~;~~ and which makes  
39 ~~the~~ its operation ~~thereof~~ a nuisance or providing for an abatement ~~thereof~~ as a nuisance in  
40 the circumstances set forth in this section are null and void~~;~~ provided, however, that the. The  
41 provisions of this Subsection (3) ~~shall~~ may not apply whenever a nuisance results from the  
42 negligent or improper operation of ~~any such~~ a manufacturing facility.