

NUISANCE AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: Scott K. Jenkins

LONG TITLE

General Description:

This bill clarifies language pertaining to nuisances.

Highlighted Provisions:

This bill:

- ▶ makes clarifying amendments to language regarding manufacturing facilities as nuisances; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

(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.

Legislative Review Note
as of 2-14-11 12:31 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 432

SHORT TITLE: **Nuisance Amendments**

SPONSOR: **Froerer, G.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.