

1 **NIGHTTIME HIGHWAY CONSTRUCTION NOISE**

2 **AMENDMENTS**

3 2017 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Kay J. Christofferson**

6 Senate Sponsor: _____

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Transportation Code by amending provisions relating to
11 nighttime highway construction.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ modifies the definition of "nighttime highway construction" to include activities
15 related to and necessary for highway construction.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **72-6-112.5**, as enacted by Laws of Utah 2016, Chapter 178

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

25 Section 1. Section **72-6-112.5** is amended to read:

26 **72-6-112.5. Definitions -- Nighttime highway construction noise -- Exemptions --**
27 **Permits.**



28 (1) As used in this section:

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

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

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

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

35 (b) "Nighttime highway construction" means:

36 (i) highway construction occurring between the hours of 10:00 p.m. and 7:00 a.m[.]; or

37 (ii) activities occurring between the hours of 7:00 p.m. and 7:00 a.m. that are related to
38 and necessary for highway construction, including:

39 (A) the preparation and transportation of equipment or materials; and

40 (B) the manufacture of materials at a gravel pit, mixing plant, or similar site.

41 (2) A state highway construction project conducted on a road where the normal posted
42 speed limit is 55 miles per hour or greater is exempt from any noise ordinance, regulation, or
43 standard of a local jurisdictional authority.

44 (3) A state highway construction project conducted on a road where the normal posted
45 speed limit is less than 55 miles per hour is exempt from any noise ordinance, regulation, or
46 standard of a local jurisdictional authority if the department:

47 (a) provides reasonable written notice at least 48 hours in advance of any required
48 nighttime highway construction to each residential dwelling located within front row receptors
49 of the activity;

50 (b) determines a net community, including traveler community, benefit exists to
51 conduct nighttime highway construction after considering the following:

52 (i) public health;

53 (ii) project completion time;

54 (iii) air quality;

55 (iv) traffic;

56 (v) economics;

57 (vi) safety; and

58 (vii) local jurisdiction concerns; and

59 (c) institutes best management noise reduction practices, as determined by the
60 department, for front row receptors, in consultation with local government or the local
61 jurisdictional authority for all nighttime highway construction, which may include:

- 62 (i) equipment maintenance;
- 63 (ii) noise shielding;
- 64 (iii) scheduling the most noise intrusive activities during the day; and
- 65 (iv) other noise mitigation methods.

66 (4) (a) Subject to Subsection (2) or (3), a state highway project shall secure required
67 noise permits from the local jurisdictional authority to conduct nighttime highway construction.

68 (b) To the extent practical, the department shall coordinate with the local jurisdictional
69 authority during the pre-construction phase of a project to address noise exemption conditions.

70 (5) A local jurisdictional authority shall issue a nighttime highway construction noise
71 permit without additional requirements to the department at the request of the department or
72 the department's designated project agent if the requirements of Subsections (2) and (3) are
73 met.

74 (6) (a) For the exemption provided in Subsection (3) and in accordance with Title 63G,
75 Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules establishing
76 procedures:

77 (i) for a local jurisdictional authority or local government to appeal the decision of the
78 department to conduct nighttime highway construction on roads where the normal posted speed
79 limit is less than 55 miles per hour; and

80 (ii) for the local jurisdictional authority to request that the department enforce the terms
81 of a noise permit.

82 (b) After review and upon receiving a written notice from a local jurisdictional
83 authority that the conditions for the noise exemption permit are not met, the department shall
84 take corrective action to ensure nighttime highway construction activities meet requirements of
85 the local permit.