

**PUBLIC TRANSIT AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen G. Handy**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions related to public transit safety and construction activities.

**Highlighted Provisions:**

This bill:

- ▶ exempts an occupant of a paratransit vehicle operated by a public transit district from a requirement to wear a seatbelt;
- ▶ enhances a drug-related charge if an offense occurs in a transit vehicle or within 100 feet of certain facilities related to public transit;
- ▶ exempts a public transit district from noise restrictions related to nighttime construction in certain circumstances; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**41-6a-1804**, as renumbered and amended by Laws of Utah 2005, Chapter 2

**58-37-8**, as last amended by Laws of Utah 2016, Chapters 99 and 348

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



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

30 Section 1. Section **41-6a-1804** is amended to read:

31 **41-6a-1804. Exceptions.**

32 (1) This part does not apply to an operator or passenger of:

33 (a) a motor vehicle manufactured before July 1, 1966;

34 (b) a motor vehicle in which the operator or passengers possess a written verification  
35 from a licensed physician that the person is unable to wear a safety belt for physical or medical  
36 reasons; [or]

37 (c) a motor vehicle or seating position which is not required to be equipped with a  
38 safety belt system under federal law[-]; or

39 (d) a paratransit vehicle operated by a public transit district.

40 (2) This part does not apply to a passenger if all seating positions are occupied by other  
41 passengers.

42 Section 2. Section **58-37-8** is amended to read:

43 **58-37-8. Prohibited acts -- Penalties.**

44 (1) Prohibited acts A -- Penalties and reporting:

45 (a) Except as authorized by this chapter, it is unlawful for any person to knowingly and  
46 intentionally:

47 (i) produce, manufacture, or dispense, or to possess with intent to produce,  
48 manufacture, or dispense, a controlled or counterfeit substance;

49 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or  
50 arrange to distribute a controlled or counterfeit substance;

51 (iii) possess a controlled or counterfeit substance with intent to distribute; or

52 (iv) engage in a continuing criminal enterprise where:

53 (A) the person participates, directs, or engages in conduct that results in any violation  
54 of any provision of Title 58, Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug  
55 Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled Substance  
56 Precursor Act, or 37d, Clandestine Drug Lab Act, that is a felony; and

57 (B) the violation is a part of a continuing series of two or more violations of Title 58,  
58 Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b,

59 Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d,  
60 Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or  
61 more persons with respect to whom the person occupies a position of organizer, supervisor, or  
62 any other position of management.

63 (b) Any person convicted of violating Subsection (1)(a) with respect to:

64 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled  
65 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second  
66 degree felony, punishable by imprisonment for not more than 15 years, and upon a second or  
67 subsequent conviction is guilty of a first degree felony;

68 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or  
69 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and  
70 upon a second or subsequent conviction is guilty of a second degree felony; or

71 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a  
72 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree  
73 felony.

74 (c) Any person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii)  
75 may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier  
76 of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on his  
77 person or in his immediate possession during the commission or in furtherance of the offense,  
78 the court shall additionally sentence the person convicted for a term of one year to run  
79 consecutively and not concurrently; and the court may additionally sentence the person  
80 convicted for an indeterminate term not to exceed five years to run consecutively and not  
81 concurrently.

82 (d) Any person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree  
83 felony punishable by imprisonment for an indeterminate term of not less than seven years and  
84 which may be for life. Imposition or execution of the sentence may not be suspended, and the  
85 person is not eligible for probation.

86 (e) The Administrative Office of the Courts shall report to the Division of  
87 Occupational and Professional Licensing the name, case number, date of conviction, and if  
88 known, the date of birth of each person convicted of violating Subsection (2)(a).

89 (2) Prohibited acts B -- Penalties and reporting:

90 (a) It is unlawful:

91 (i) for any person knowingly and intentionally to possess or use a controlled substance  
92 analog or a controlled substance, unless it was obtained under a valid prescription or order,  
93 directly from a practitioner while acting in the course of the person's professional practice, or as  
94 otherwise authorized by this chapter;

95 (ii) for any owner, tenant, licensee, or person in control of any building, room,  
96 tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to  
97 be occupied by persons unlawfully possessing, using, or distributing controlled substances in  
98 any of those locations; or

99 (iii) for any person knowingly and intentionally to possess an altered or forged  
100 prescription or written order for a controlled substance.

101 (b) Any person convicted of violating Subsection (2)(a)(i) with respect to:

102 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;  
103 or

104 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty  
105 of a class A misdemeanor on a first or second conviction, and on a third or subsequent  
106 conviction is guilty of a third degree felony.

107 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a  
108 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater  
109 penalty than provided in this Subsection (2).

110 (d) Any person who violates Subsection (2)(a)(i) with respect to all other controlled  
111 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section  
112 58-37-4.2, or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the  
113 person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the  
114 person is guilty of a third degree felony.

115 (e) Any person convicted of violating Subsection (2)(a)(i) while inside the exterior  
116 boundaries of property occupied by any correctional facility as defined in Section 64-13-1 or  
117 any public jail or other place of confinement shall be sentenced to a penalty one degree greater  
118 than provided in Subsection (2)(b), and if the conviction is with respect to controlled  
119 substances as listed in:

120 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an

121 indeterminate term as provided by law, and:

122 (A) the court shall additionally sentence the person convicted to a term of one year to  
123 run consecutively and not concurrently; and

124 (B) the court may additionally sentence the person convicted for an indeterminate term  
125 not to exceed five years to run consecutively and not concurrently; and

126 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an  
127 indeterminate term as provided by law, and the court shall additionally sentence the person  
128 convicted to a term of six months to run consecutively and not concurrently.

129 (f) Any person convicted of violating Subsection (2)(a)(ii) or(iii) is:

130 (i) on a first conviction, guilty of a class B misdemeanor;

131 (ii) on a second conviction, guilty of a class A misdemeanor; and

132 (iii) on a third or subsequent conviction, guilty of a third degree felony.

133 (g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not  
134 amounting to a violation of Section 76-5-207:

135 (i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's  
136 body any measurable amount of a controlled substance; and

137 (ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner,  
138 causing serious bodily injury as defined in Section 76-1-601 or the death of another.

139 (h) A person who violates Subsection (2)(g) by having in the person's body:

140 (i) a controlled substance classified under Schedule I, other than those described in

141 Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second  
142 degree felony;

143 (ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection

144 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third  
145 degree felony; or

146 (iii) any controlled substance classified under Schedules III, IV, or V is guilty of a class  
147 A misdemeanor.

148 (i) A person is guilty of a separate offense for each victim suffering serious bodily  
149 injury or death as a result of the person's negligent driving in violation of Subsection  
150 58-37-8(2)(g) whether or not the injuries arise from the same episode of driving.

151 (j) The Administrative Office of the Courts shall report to the Division of Occupational

152 and Professional Licensing the name, case number, date of conviction, and if known, the date  
153 of birth of each person convicted of violating Subsection (2)(a).

154 (3) Prohibited acts C -- Penalties:

155 (a) It is unlawful for any person knowingly and intentionally:

156 (i) to use in the course of the manufacture or distribution of a controlled substance a  
157 license number which is fictitious, revoked, suspended, or issued to another person or, for the  
158 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a  
159 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized  
160 person;

161 (ii) to acquire or obtain possession of, to procure or attempt to procure the  
162 administration of, to obtain a prescription for, to prescribe or dispense to any person known to  
163 be attempting to acquire or obtain possession of, or to procure the administration of any  
164 controlled substance by misrepresentation or failure by the person to disclose receiving any  
165 controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a  
166 prescription or written order for a controlled substance, or the use of a false name or address;

167 (iii) to make any false or forged prescription or written order for a controlled substance,  
168 or to utter the same, or to alter any prescription or written order issued or written under the  
169 terms of this chapter; or

170 (iv) to make, distribute, or possess any punch, die, plate, stone, or other thing designed  
171 to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or  
172 device of another or any likeness of any of the foregoing upon any drug or container or labeling  
173 so as to render any drug a counterfeit controlled substance.

174 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A  
175 misdemeanor.

176 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third  
177 degree felony.

178 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

179 (4) Prohibited acts D -- Penalties:

180 (a) Notwithstanding other provisions of this section, a person not authorized under this  
181 chapter who commits any act that is unlawful under Subsection (1)(a), Section 58-37a-5, or  
182 Section 58-37b-4 is upon conviction subject to the penalties and classifications under this

183 Subsection (4) if the trier of fact finds the act is committed:

184 (i) in a public or private elementary or secondary school or on the grounds of any of  
185 those schools during the hours of 6 a.m. through 10 p.m.;

186 (ii) in a public or private vocational school or postsecondary institution or on the  
187 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

188 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or  
189 facility's hours of operation;

190 (iv) in a public park, amusement park, arcade, or recreation center when the public or  
191 amusement park, arcade, or recreation center is open to the public;

192 (v) in or on the grounds of a house of worship as defined in Section [76-10-501](#);

193 (vi) in or on the grounds of a library when the library is open to the public;

194 (vii) within any area that is within 100 feet of any structure, facility, or grounds  
195 included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

196 (viii) (A) in or on a transit vehicle as defined in Section [17B-2a-802](#); or

197 (B) within 100 feet of a transit station, depot, passenger loading or unloading zone,  
198 parking lot, or other facility;

199 [~~viii~~] (ix) in the presence of a person younger than 18 years of age, regardless of  
200 where the act occurs; or

201 [~~ix~~] (x) for the purpose of facilitating, arranging, or causing the transport, delivery, or  
202 distribution of a substance in violation of this section to an inmate or on the grounds of any  
203 correctional facility as defined in Section [76-8-311.3](#).

204 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony  
205 and shall be imprisoned for a term of not less than five years if the penalty that would  
206 otherwise have been established but for this Subsection (4) would have been a first degree  
207 felony.

208 (ii) Imposition or execution of the sentence may not be suspended, and the person is  
209 not eligible for probation.

210 (c) If the classification that would otherwise have been established would have been  
211 less than a first degree felony but for this Subsection (4), a person convicted under this  
212 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that  
213 offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

214 (d) (i) If the violation is of Subsection (4)(a)(ix):

215 (A) the person may be sentenced to imprisonment for an indeterminate term as  
216 provided by law, and the court shall additionally sentence the person convicted for a term of  
217 one year to run consecutively and not concurrently; and

218 (B) the court may additionally sentence the person convicted for an indeterminate term  
219 not to exceed five years to run consecutively and not concurrently; and

220 (ii) the penalties under this Subsection (4)(d) apply also to any person who, acting with  
221 the mental state required for the commission of an offense, directly or indirectly solicits,  
222 requests, commands, coerces, encourages, or intentionally aids another person to commit a  
223 violation of Subsection (4)(a)~~(ix)~~(x).

224 (e) It is not a defense to a prosecution under this Subsection (4) that the actor  
225 mistakenly believed the individual to be 18 years of age or older at the time of the offense or  
226 was unaware of the individual's true age; nor that the actor mistakenly believed that the  
227 location where the act occurred was not as described in Subsection (4)(a) or was unaware that  
228 the location where the act occurred was as described in Subsection (4)(a).

229 (5) Any violation of this chapter for which no penalty is specified is a class B  
230 misdemeanor.

231 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of  
232 guilty or no contest to a violation or attempted violation of this section or a plea which is held  
233 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,  
234 even if the charge has been subsequently reduced or dismissed in accordance with the plea in  
235 abeyance agreement.

236 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a  
237 conviction that is:

238 (i) from a separate criminal episode than the current charge; and

239 (ii) from a conviction that is separate from any other conviction used to enhance the  
240 current charge.

241 (7) A person may be charged and sentenced for a violation of this section,  
242 notwithstanding a charge and sentence for a violation of any other section of this chapter.

243 (8) (a) Any penalty imposed for violation of this section is in addition to, and not in  
244 lieu of, any civil or administrative penalty or sanction authorized by law.



245 (b) Where violation of this chapter violates a federal law or the law of another state,  
246 conviction or acquittal under federal law or the law of another state for the same act is a bar to  
247 prosecution in this state.

248 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a  
249 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled  
250 substance or substances, is prima facie evidence that the person or persons did so with  
251 knowledge of the character of the substance or substances.

252 (10) This section does not prohibit a veterinarian, in good faith and in the course of the  
253 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or  
254 administering controlled substances or from causing the substances to be administered by an  
255 assistant or orderly under the veterinarian's direction and supervision.

256 (11) Civil or criminal liability may not be imposed under this section on:

257 (a) any person registered under this chapter who manufactures, distributes, or possesses  
258 an imitation controlled substance for use as a placebo or investigational new drug by a  
259 registered practitioner in the ordinary course of professional practice or research; or

260 (b) any law enforcement officer acting in the course and legitimate scope of the  
261 officer's employment.

262 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,  
263 as defined in Subsection 58-37-2(1)(v), who uses, possesses, or transports peyote for bona fide  
264 traditional ceremonial purposes in connection with the practice of a traditional Indian religion  
265 as defined in Subsection 58-37-2(1)(w).

266 (b) In a prosecution alleging violation of this section regarding peyote as defined in  
267 Subsection 58-37-4(2)(a)(iii)(V), it is an affirmative defense that the peyote was used,  
268 possessed, or transported by an Indian for bona fide traditional ceremonial purposes in  
269 connection with the practice of a traditional Indian religion.

270 (c) (i) The defendant shall provide written notice of intent to claim an affirmative  
271 defense under this Subsection (12) as soon as practicable, but not later than 10 days prior to  
272 trial.

273 (ii) The notice shall include the specific claims of the affirmative defense.

274 (iii) The court may waive the notice requirement in the interest of justice for good  
275 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

276 (d) The defendant shall establish the affirmative defense under this Subsection (12) by  
277 a preponderance of the evidence. If the defense is established, it is a complete defense to the  
278 charges.

279 (13) (a) It is an affirmative defense that the person produced, possessed, or  
280 administered a controlled substance listed in Section 58-37-4.2 if the person:

281 (i) was engaged in medical research; and

282 (ii) was a holder of a valid license to possess controlled substances under Section  
283 58-37-6.

284 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed  
285 a controlled substance listed in Section 58-37-4.2.

286 (14) It is an affirmative defense that the person possessed, in the person's body, a  
287 controlled substance listed in Section 58-37-4.2 if:

288 (a) the person was the subject of medical research conducted by a holder of a valid  
289 license to possess controlled substances under Section 58-37-6; and

290 (b) the substance was administered to the person by the medical researcher.

291 (15) The application of any increase in penalty under this section to a violation of  
292 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This  
293 Subsection (15) takes precedence over any conflicting provision of this section.

294 (16) (a) It is an affirmative defense to an allegation of the commission of an offense  
295 listed in Subsection (16)(b) that the person:

296 (i) reasonably believes that the person or another person is experiencing an overdose  
297 event due to the ingestion, injection, inhalation, or other introduction into the human body of a  
298 controlled substance or other substance;

299 (ii) reports in good faith the overdose event to a medical provider, an emergency  
300 medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911  
301 emergency call system, or an emergency dispatch system, or the person is the subject of a  
302 report made under this Subsection (16);

303 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the  
304 actual location of the overdose event that facilitates responding to the person experiencing the  
305 overdose event;

306 (iv) remains at the location of the person experiencing the overdose event until a

307 responding law enforcement officer or emergency medical service provider arrives, or remains  
308 at the medical care facility where the person experiencing an overdose event is located until a  
309 responding law enforcement officer arrives;

310 (v) cooperates with the responding medical provider, emergency medical service  
311 provider, and law enforcement officer, including providing information regarding the person  
312 experiencing the overdose event and any substances the person may have injected, inhaled, or  
313 otherwise introduced into the person's body; and

314 (vi) is alleged to have committed the offense in the same course of events from which  
315 the reported overdose arose.

316 (b) The offenses referred to in Subsection (16)(a) are:

317 (i) the possession or use of less than 16 ounces of marijuana;

318 (ii) the possession or use of a scheduled or listed controlled substance other than  
319 marijuana; and

320 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,  
321 Imitation Controlled Substances Act.

322 (c) As used in this Subsection (16) and in Section [76-3-203.11](#), "good faith" does not  
323 include seeking medical assistance under this section during the course of a law enforcement  
324 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

325 (17) If any provision of this chapter, or the application of any provision to any person  
326 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the  
327 invalid provision or application.

328 (18) A legislative body of a political subdivision may not enact an ordinance that is  
329 less restrictive than any provision of this chapter.

330 (19) (a) If a minor who is under 18 years of age is found by a court to have violated this  
331 section and the violation is the minor's first violation of this section, the court may:

332 (i) order the minor to complete a screening as defined in Section [41-6a-501](#);

333 (ii) order the minor to complete an assessment as defined in Section [41-6a-501](#) if the  
334 screening indicates an assessment to be appropriate; and

335 (iii) order the minor to complete an educational series as defined in Section [41-6a-501](#)  
336 or substance abuse treatment as indicated by an assessment.

337 (b) If a minor who is under 18 years of age is found by a court to have violated this

338 section and the violation is the minor's second or subsequent violation of this section, the court  
339 shall:

- 340 (i) order the minor to complete a screening as defined in Section 41-6a-501;
- 341 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the  
342 screening indicates an assessment to be appropriate; and
- 343 (iii) order the minor to complete an educational series as defined in Section 41-6a-501  
344 or substance abuse treatment as indicated by an assessment.

345 Section 3. Section 72-6-112.5 is amended to read:

346 **72-6-112.5. Definitions -- Nighttime highway construction noise -- Exemptions --**  
347 **Permits.**

348 (1) As used in this section:

- 349 (a) (i) "Front row receptor" means a noise-sensitive residential receptor that is:  
350 (A) immediately adjacent to a transportation facility; or  
351 (B) within 800 feet of a transportation facility that is within a commercial or  
352 industrialized area.

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

355 (b) "Nighttime [~~highway~~] construction" means highway or public transit construction  
356 occurring between the hours of 10:00 p.m. and 7:00 a.m.

357 (2) A state highway construction project or public transit construction project  
358 conducted on a right-of-way or road where the normal posted speed limit is 55 miles per hour  
359 or greater is exempt from any noise ordinance, regulation, or standard of a local jurisdictional  
360 authority.

361 (3) A state highway construction project conducted on a right-of-way or road where the  
362 normal posted speed limit is less than 55 miles per hour is exempt from any noise ordinance,  
363 regulation, or standard of a local jurisdictional authority if the department or public transit  
364 district:

365 (a) provides reasonable written notice at least 48 hours in advance of any required  
366 nighttime [~~highway~~] construction to each residential dwelling located within front row  
367 receptors of the activity;

368 (b) determines a net community, including traveler community, benefit exists to

369 conduct nighttime [highway] construction after considering the following:

370 (i) public health;

371 (ii) project completion time;

372 (iii) air quality;

373 (iv) traffic;

374 (v) economics;

375 (vi) safety; and

376 (vii) local jurisdiction concerns; and

377 (c) institutes best management noise reduction practices, as determined by the

378 department or public transit district, for front row receptors, in consultation with local

379 government or the local jurisdictional authority for all nighttime [highway] construction, which

380 may include:

381 (i) equipment maintenance;

382 (ii) noise shielding;

383 (iii) scheduling the most noise intrusive activities during the day; and

384 (iv) other noise mitigation methods.

385 (4) (a) Subject to Subsection (2) or (3), a state highway project or public transit project

386 shall secure required noise permits from the local jurisdictional authority to conduct nighttime

387 [highway] construction.

388 (b) To the extent practical, the department or public transit district shall coordinate

389 with the local jurisdictional authority during the pre-construction phase of a project to address

390 noise exemption conditions.

391 (5) A local jurisdictional authority shall issue a nighttime [highway] construction noise

392 permit without additional requirements to the department or public transit district at the request

393 of the department or public transit district or the department's or public transit district's

394 designated project agent if the requirements of Subsections (2) and (3) are met.

395 (6) (a) For the exemption provided in Subsection (3) and in accordance with Title 63G,

396 Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules establishing

397 procedures:

398 (i) for a local jurisdictional authority or local government to appeal the decision of the

399 department to conduct nighttime [highway] construction on roads where the normal posted

400 speed limit is less than 55 miles per hour; and

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

403 (b) For the exemption provided in Subsection (3), a public transit district shall comply  
404 with the procedures established by department rules made in accordance with Subsection  
405 (6)(a).

406 [~~(b)~~] (c) After review and upon receiving a written notice from a local jurisdictional  
407 authority that the conditions for the noise exemption permit are not met, the department or  
408 public transit district shall take corrective action to ensure nighttime [~~highway~~] construction  
409 activities meet requirements of the local permit.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**