

## HB0096S02 compared with HB0096S01

~~text~~ shows text that was in HB0096S01 but was deleted in HB0096S02.

Inserted text shows text that was not in HB0096S01 but was inserted into HB0096S02.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Kay J. Christofferson proposes the following substitute bill:

### NIGHTTIME HIGHWAY CONSTRUCTION NOISE

#### AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kay J. Christofferson**

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

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#### LONG TITLE

##### General Description:

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

##### Highlighted Provisions:

This bill:

- ▶ modifies definitions related to nighttime highway construction;
- ▶ requires a local jurisdiction to permit certain activities related to nighttime highway construction;
- ▶ allows a local jurisdiction to request mitigation for unreasonable noise disturbances caused by nighttime highway construction; and

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- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

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

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

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

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

#### **Permits.**

(1) As used in this section:

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

(A) immediately adjacent to a transportation facility; or

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

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

(b) "Nighttime highway construction" means highway construction occurring between the hours of 10:00 p.m. and 7:00 a.m.

(c) "Nuisance" means the same as that term is defined in Section 78B-6-1101.

(d) (i) "Permitted activities" means activities occurring between the hours of 7:00 p.m. and 7:00 a.m. that are related to and necessary for nighttime highway construction, whether occurring at the construction site or at a gravel pit or other site for production of raw materials, and includes:

(A) loading and unloading of trucks;

(B) asphalt mixing and hauling; and

(C) concrete mixing and hauling.

(ii) "Permitted activities" does not include:

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(A) blasting;

(B) crushing; or

(C) operating a vehicle with a backup alarm engaged.

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

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

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

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

(i) public health;

(ii) project completion time;

(iii) air quality;

(iv) traffic;

(v) economics;

(vi) safety; and

(vii) local jurisdiction concerns; and

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

(i) equipment maintenance;

(ii) noise shielding;

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

(iv) other noise mitigation methods.

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

(b) To the extent practical, the department shall coordinate with the local jurisdictional

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authority during the pre-construction phase of a project to address noise exemption conditions.

(5) A local jurisdictional authority shall issue a nighttime highway construction permit limited to permitted activities if:

(a) the applicant provides evidence that the permitted activities are directly related to and necessary for a nighttime highway construction project for which the department has obtained a ~~{nighttime highway construction}~~noise permit from a local jurisdictional authority pursuant to Subsection (~~(2) or (3)~~4); and

(b) the local jurisdictional authority determines that any nuisance that may be caused by the nighttime highway construction may be reasonably mitigated.

~~[(5)] (6) ~~(a)~~~~ A local jurisdictional authority shall issue a nighttime highway construction noise permit without additional requirements to the department at the request of the department or the department's designated project agent if the requirements of Subsections (2) and (3) are met.

~~(~~(b)~~7) (a) ~~{In conjunction with the corrective action described in Subsection (7)(b),~~~~  
~~a~~A local jurisdictional authority may request adjustments to a ~~{noise}~~nighttime highway construction permit to mitigate unreasonable noise disturbances caused by nighttime highway construction or permitted activities.

(b) If adjustments are requested as described in Subsection (7)(a), the nighttime highway construction permit holder shall use best management noise reduction practices to mitigate unreasonable noise disturbances.

~~[(6)] (~~(7)~~8) (a)~~ For the exemption provided in Subsection (3) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules establishing procedures:

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

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

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

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the local permit.