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**Nuisance Amendments**  
 2026 GENERAL SESSION  
 STATE OF UTAH  
**Chief Sponsor: Colin W. Jack**  
 Senate Sponsor:

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**LONG TITLE**

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**General Description:**

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This bill addresses private and public nuisances.

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**Highlighted Provisions:**

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This bill:

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- ▶ renumbers and repeals statutes in Title 47, Nuisances;
- ▶ modifies definitions for public nuisance crimes;
- ▶ repeals and renumbers statutes related to a civil action for a public nuisance;
- ▶ renumbers statutory provisions in Title 78B, Chapter 6, Part 11, Nuisance, to Title 78B, Chapter 6a, Civil Actions for Nuisances;
- ▶ defines terms related to public and private nuisances;
- ▶ abrogates the common law right of action for a public or private nuisance;
- ▶ creates a right of action for a public nuisance;
- ▶ clarifies and amends the right of action for a private nuisance;
- ▶ addresses defenses for private and public nuisance actions; and
- ▶ makes technical and conforming changes.

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**Money Appropriated in this Bill:**

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None

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**Other Special Clauses:**

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None

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**Utah Code Sections Affected:**

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AMENDS:

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- 10-3-703**, as last amended by Laws of Utah 2025, Chapter 141
- 17-64-501**, as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 13
- 17-81-101**, as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 14
- 17-81-304**, as renumbered and amended by Laws of Utah 2025, First Special Session,

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31 Chapter 14  
32 **23A-13-303**, as last amended by Laws of Utah 2025, Chapter 173  
33 **40-11-13**, as enacted by Laws of Utah 2022, Chapter 62  
34 **72-6-112.5**, as last amended by Laws of Utah 2023, Chapter 22  
35 **76-5c-103**, as renumbered and amended by Laws of Utah 2025, Chapter 173  
36 **76-9-1301**, as renumbered and amended by Laws of Utah 2025, Chapter 173  
37 **78B-6-802**, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 19  
38 **78B-6-805**, as last amended by Laws of Utah 2018, Chapter 291  
39 **78B-6-806**, as renumbered and amended by Laws of Utah 2008, Chapter 3  
40 **78B-6-811**, as last amended by Laws of Utah 2025, Chapter 275  
41 **78B-6-813**, as renumbered and amended by Laws of Utah 2008, Chapter 3

## ENACTS:

43 **4-47-101**, Utah Code Annotated 1953  
44 **78B-6a-102**, Utah Code Annotated 1953  
45 **78B-6a-201**, Utah Code Annotated 1953  
46 **78B-6a-202**, Utah Code Annotated 1953  
47 **78B-6a-203**, Utah Code Annotated 1953  
48 **78B-6a-204**, Utah Code Annotated 1953  
49 **78B-6a-301**, Utah Code Annotated 1953  
50 **78B-6a-303**, Utah Code Annotated 1953  
51 **78B-6a-401**, Utah Code Annotated 1953  
52 **78B-6a-407**, Utah Code Annotated 1953  
53 **78B-6a-408**, Utah Code Annotated 1953

## RENUMBERS AND AMENDS:

55 **4-47-102**, (Renumbered from 47-2-3, Utah Code Annotated 1953)  
56 **4-47-201**, (Renumbered from 47-2-4, as last amended by Laws of Utah 2009, Chapter  
57 388)  
58 **4-47-202**, (Renumbered from 47-2-5, as last amended by Laws of Utah 1993, Chapter  
59 227)  
60 **4-47-203**, (Renumbered from 47-2-6, as last amended by Laws of Utah 2025, Chapter  
61 302)  
62 **4-47-204**, (Renumbered from 47-2-7, as last amended by Laws of Utah 1993, Chapter  
63 227)  
64 **53-5a-701**, (Renumbered from 47-3-102, as last amended by Laws of Utah 2015,

65 Chapter 258)  
66 **53-5a-702**, (Renumbered from 47-3-201, as renumbered and amended by Laws of  
67 Utah 2013, Chapter 155)  
68 **53-5a-703**, (Renumbered from 47-3-202, as renumbered and amended by Laws of  
69 Utah 2013, Chapter 155)  
70 **53-5a-704**, (Renumbered from 47-3-301, as enacted by Laws of Utah 2013, Chapter  
71 155)  
72 **53-5a-705**, (Renumbered from 47-3-302, as enacted by Laws of Utah 2013, Chapter  
73 155)  
74 **53-5a-706**, (Renumbered from 47-3-303, as enacted by Laws of Utah 2013, Chapter  
75 155)  
76 **53-5a-707**, (Renumbered from 47-3-304, as enacted by Laws of Utah 2013, Chapter  
77 155)  
78 **53-5a-708**, (Renumbered from 47-3-305, as last amended by Laws of Utah 2025,  
79 Chapters 173, 208)  
80 **78B-6a-101**, (Renumbered from 78B-6-1101, as last amended by Laws of Utah 2025,  
81 First Special Session, Chapter 15)  
82 **78B-6a-103**, (Renumbered from 78B-6-1114, as last amended by Laws of Utah 2025,  
83 Chapter 141)  
84 **78B-6a-104**, (Renumbered from 78B-6-1102.5, as last amended by Laws of Utah  
85 2025, Chapter 141)  
86 **78B-6a-302**, (Renumbered from 78B-6-1102, as last amended by Laws of Utah 2025,  
87 Chapter 141)  
88 **78B-6a-304**, (Renumbered from 78B-6-1113, as last amended by Laws of Utah 2025,  
89 Chapter 141)  
90 **78B-6a-402**, (Renumbered from 78B-6-1103, as last amended by Laws of Utah 2025,  
91 Chapters 141, 173)  
92 **78B-6a-403**, (Renumbered from 78B-6-1115, as enacted by Laws of Utah 2019,  
93 Chapter 227)  
94 **78B-6a-404**, (Renumbered from 4-44-201, as enacted by Laws of Utah 2019, Chapter  
95 81)  
96 **78B-6a-405**, (Renumbered from 78B-6-1106, as last amended by Laws of Utah 2025,  
97 Chapter 141)  
98 REPEALS:

- 99            **4-44-101**, as enacted by Laws of Utah 2019, Chapter 81
- 100          **4-44-102**, as last amended by Laws of Utah 2025, First Special Session, Chapter 16
- 101          **4-44-202**, as last amended by Laws of Utah 2025, Chapter 173
- 102          **47-1-1**, Utah Code Annotated 1953
- 103          **47-1-2**, as last amended by Laws of Utah 2024, Chapter 365
- 104          **47-1-3**, as last amended by Laws of Utah 2024, Chapter 365
- 105          **47-1-4**, as last amended by Laws of Utah 1986, Chapter 178
- 106          **47-1-5**, as last amended by Laws of Utah 2025, Chapter 302
- 107          **47-1-6**, Utah Code Annotated 1953
- 108          **47-1-7**, as last amended by Laws of Utah 2024, Chapter 365
- 109          **47-1-8**, as last amended by Laws of Utah 1986, Chapter 178
- 110          **47-2-1**, Utah Code Annotated 1953
- 111          **47-2-2**, Utah Code Annotated 1953
- 112          **47-3-101**, as enacted by Laws of Utah 2013, Chapter 155
- 113          **76-9-1306**, as renumbered and amended by Laws of Utah 2025, Chapter 173
- 114          **76-9-1307**, as renumbered and amended by Laws of Utah 2025, Chapter 173
- 115          **78B-6-1107**, as last amended by Laws of Utah 2025, Chapters 141, 173, 174, 178, and
- 116          208
- 117          **78B-6-1108**, as last amended by Laws of Utah 2025, Chapter 141
- 118          **78B-6-1109**, as last amended by Laws of Utah 2025, Chapter 141
- 119          **78B-6-1110**, as last amended by Laws of Utah 2025, Chapter 141
- 120          **78B-6-1111**, as last amended by Laws of Utah 2025, Chapter 141
- 121          **78B-6-1112**, as last amended by Laws of Utah 2025, Chapter 141

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

124                Section 1. Section **4-47-101** is enacted to read:

125                                **CHAPTER 47. Abandoned Horses**

126    **Part 1. General Provisions**

127                        **4-47-101 . Definitions for chapter.**

128                        As used in this chapter:

129                        (1)(a) "Abandoned horse" means any horse, ass, mule, or other animal of the genus  
 130                                Equus, unbranded, or, if branded, that has escaped assessment for taxation for the  
 131                                year next preceding the killing of such animal as hereinafter provided for, and

132 running at large upon the open range of this state.

133 (b) "Abandoned horse" includes a foal running with a dam described in Subsection (1)(a).

134 (2)(a) "Open range" means all land not privately owned.

135 (b) "Open range" includes all roads, outside of private enclosures, used by the public,  
 136 whether the same have been formally dedicated to the public or not.

137 (3) "Unbranded" means an animal not bearing a decipherable brand recorded in accordance  
 138 with Section 4-24-202.

139 Section 2. Section **4-47-102**, which is renumbered from Section 47-2-3 is renumbered  
 140 and amended to read:

141 **[47-2-3] 4-47-102 . Abandoned horses on open range declared a public menace.**

142 (1) It shall be unlawful for any person to suffer or permit any abandoned horse to run at  
 143 large upon the open range[, and every abandoned horse is declared to be a public  
 144 nuisance and a public menace, and is condemned subject to the right of its owner to  
 145 reclaim it under the conditions hereinafter provided.] .

146 (2) It is in the public interest that every abandoned horse be declared a public menace and is  
 147 condemned, subject to the right of the horse's owner to reclaim the horse under the  
 148 conditions described in this chapter.

149 Section 3. Section **4-47-201**, which is renumbered from Section 47-2-4 is renumbered  
 150 and amended to read:

## 152 **Part 2. Process for Abandoned Horses**

153 **[47-2-4] 4-47-201 . Elimination by the county executive -- Notice of intention.**

154 (1) The county executive may provide for the elimination of abandoned horses in the  
 155 respective counties in the following manner:

156 (a) The county executive shall cause notice to be:

157 (i)(A) published at least once a week for three successive weeks in a newspaper of  
 158 general circulation published in the county; and

159 (B) in accordance with Section 45-1-101, published for three weeks;

160 (ii) posted in at least five public places outside of the county seat on public highways  
 161 in such county; and

162 (iii) posted in three public places at the county seat, one of which shall be at the front  
 163 door of the courthouse.

164 (b) The notices posted outside of the county seat shall be posted not less than two miles  
 165 apart, and all posted notices shall be posted at least 30 days before the date which the  
 166 county executive shall fix for the beginning of the elimination of abandoned horses

167 from the range in such county as hereinafter provided.

168 (2) The notice shall be substantially in the following form:

169 Notice is hereby given that in accordance with the provisions of law the county  
 170 executive of \_\_\_\_ County, Utah, will proceed to eliminate abandoned horses from the open  
 171 range in said county, and that beginning on \_\_\_\_\_(month\day\year), a drive will be held,  
 172 and all abandoned horses running upon the open range will, under the direction and  
 173 supervision of the county executive, be eliminated. All owners of horses running upon the  
 174 open range are hereby given notice to file with the county executive a description of the  
 175 horses, and the brands or marks thereon.

176 Dated this \_\_\_\_\_(month\day\year).

177 By order of the county executive of \_\_\_\_ County, Utah.

178 \_\_\_\_\_

179 County Clerk.

180 Section 4. Section **4-47-202**, which is renumbered from Section 47-2-5 is renumbered  
 181 and amended to read:

182 **[47-2-5] 4-47-202 . Elimination by the county legislative body -- Method -- Sale.**

183 (1) A policy for the manner and method of eliminating abandoned horses from the  
 184 open range shall be in the discretion of the county legislative body, and it shall be [its]  
 185 the county legislative body's duty to so eliminate abandoned horses, using the means  
 186 most effective and economical under the circumstances.

187 (2) The county executive may sell all captured horses.

188 Section 5. Section **4-47-203**, which is renumbered from Section 47-2-6 is renumbered  
 189 and amended to read:

190 **[47-2-6] 4-47-203 . Owners may reclaim -- Damages -- Taxes.**

191 (1) Any person owning any horses which are running at large in any county in which  
 192 the county executive has given notice of intention to make a drive, as provided in this  
 193 chapter, may within 30 days after the posting or the first publication of the notice  
 194 mentioned in Section [47-2-4] 4-47-201 file with the county executive a description of  
 195 such horses claimed by the person, giving the marks and brands, if any, which appear  
 196 thereon, and, if the county executive shall take into [its] the county executive's  
 197 possession any horses so claimed, [it] the county executive shall by registered letter  
 198 addressed to the owner or claimant of such horses notify the owner or claimant that the  
 199 same may be claimed within 10 days from the mailing of such notice; and such owner or  
 200 claimant shall be permitted upon application to the county legislative body to take

201 possession of such horses upon payment of the expense of caring for the same from the  
202 date of capture.

203 (2) If any horses are killed by order of the county executive under the provisions of this  
204 chapter, a description of which has been reported by the owner thereof to the county  
205 legislative body, and ownership of such animals can be satisfactorily established, such  
206 owner shall receive as damage therefor a sum not exceeding \$10 for each animal;  
207 provided, that the owner has paid all taxes assessed against said animal; provided  
208 further, that payment of such claims may be made only from proceeds of sales of  
209 captured horses.

210 Section 6. Section **4-47-204**, which is renumbered from Section 47-2-7 is renumbered  
211 and amended to read:

212 **[47-2-7] 4-47-204 . Elimination from private property on request.**

213 Abandoned horses may be eliminated from privately owned land by the county  
214 executive in the same manner as from the open range when requested so to do by the owner of  
215 such land.

216 Section 7. Section **10-3-703** is amended to read:

217 **10-3-703 . Criminal penalties for violation of ordinance -- Civil penalties**  
218 **prohibited -- Exceptions.**

219 (1)(a) The governing body of a municipality may impose a criminal penalty for the  
220 violation of any municipal ordinance by a fine not to exceed the maximum class B  
221 misdemeanor fine under Section 76-3-301, by a term of imprisonment up to six  
222 months, or by both the fine and term of imprisonment.

223 (b) Notwithstanding Subsection (1)(a), a municipality may not impose a criminal penalty  
224 greater than an infraction for a violation pertaining to an individual's pet, as defined  
225 in Section 4-12-102, or an individual's use of the individual's residence unless:

226 (i) the violation:

227 (A) is a [~~nuisance as that term is defined in Section 78B-6-1101~~] private nuisance  
228 as that term is defined in Section 78B-6a-101; and

229 (B) threatens the health, safety, or welfare of the individual or an identifiable third  
230 party; or

231 (ii) the municipality has imposed a fine on the individual for a violation that involves  
232 the same residence or pet on three previous occasions within the past 12 months.

233 (c) Subsection (1)(b) does not apply to municipal enforcement of a building code or fire  
234 code ordinance in accordance with Title 15A, State Construction and Fire Codes Act.

- 235 (2)(a) Except as provided in Subsection (2)(b), the governing body may prescribe a civil  
236 penalty for the violation of any municipal ordinance by a fine not to exceed the  
237 maximum class B misdemeanor fine under Section 76-3-301.
- 238 (b) A municipality may not impose a civil penalty and adjudication for the violation of a  
239 municipal moving traffic ordinance.
- 240 (3)(a) Except as provided in Subsection (3)(b) or Section 77-7-18, a municipal officer or  
241 official who is not a law enforcement officer described in Section 53-13-103 or a  
242 special function officer described in Section 53-13-105 may not issue a criminal  
243 citation for a violation that is punished as a misdemeanor.
- 244 (b) Notwithstanding Subsection (1) or (3)(a), the following may issue a criminal citation  
245 for a violation that is punished as a misdemeanor if the violation threatens the health  
246 and safety of an animal or the public:
- 247 (i) a fire officer described in Section 53-7-102; or  
248 (ii) an animal control officer described in Section 11-46-102.
- 249 (4) A municipality may not issue more than one infraction within a 14-day time period for a  
250 violation described in Subsection (1)(b) that is ongoing.
- 251 Section 8. Section **17-64-501** is amended to read:
- 252 **17-64-501 . Ordinances -- Power to enact -- Penalty for violation.**
- 253 (1) A legislative body may:
- 254 (a) pass ordinances:
- 255 (i) necessary for carrying into effect or discharging the powers and duties conferred  
256 by this title; and
- 257 (ii) as are necessary and proper to provide for the safety, and preserve the health,  
258 promote the prosperity, improve the morals, peace, and good order, comfort, and  
259 convenience of the county and county inhabitants, and for the protection of  
260 property in the county;
- 261 (b) enforce obedience to ordinances with fines or penalties as the legislative body  
262 considers proper;
- 263 (c) pass ordinances to control air pollution;
- 264 (d) pass resolutions; and
- 265 (e) make or adopt policies that conform with a county ordinance, county resolution, or  
266 provision of state or federal law.
- 267 (2)(a)(i) Punishment imposed under Subsection (1)(b) shall be by fine, imprisonment,  
268 or both fine and imprisonment.

- 269 (ii) A fine imposed under Subsection (2)(a)(i) may not exceed the maximum fine for  
 270 a class B misdemeanor under Section 76-3-301.
- 271 (b) Notwithstanding Subsection (2)(a), a county may not impose a criminal penalty  
 272 greater than an infraction for a violation pertaining to an individual's pet, as defined  
 273 in Section 4-12-102, or an individual's use of the individual's residence unless:
- 274 (i) the violation:
- 275 (A) is a [~~nuisance as that term is defined in Section 78B-6-1101~~] private nuisance  
 276 as described in Section 78B-6a-101; and
- 277 (B) threatens the health, safety, or welfare of the individual or an identifiable third  
 278 party; or
- 279 (ii) the county has imposed a fine on the individual for a violation that involves the  
 280 same residence or pet on three previous occasions within the past 12 months.
- 281 (c) Subsection (2)(b) does not apply to county enforcement of a building code or fire  
 282 code ordinance in accordance with Title 15A, State Construction and Fire Codes Act.
- 283 (d) When a penalty for a violation of an ordinance includes any possibility of  
 284 imprisonment, the legislative body shall include in the ordinance a statement that the  
 285 county is required, under Section 78B-22-301, to provide for indigent defense  
 286 services, as that term is defined in Section 78B-22-102.
- 287 (e) Notwithstanding any other provision of law, the following may issue a criminal  
 288 citation for a violation that is punished as a misdemeanor if the violation threatens the  
 289 health and safety of an animal or the public:
- 290 (i) a fire officer described in Section 53-7-102;
- 291 (ii) a law enforcement officer described in Section 53-13-103; or
- 292 (iii) an animal control officer described in Section 11-46-102.
- 293 (3)(a) Except as specifically authorized by statute, the legislative body may not impose a  
 294 civil penalty for the violation of a county traffic ordinance.
- 295 (b) Subsection (3)(a) does not apply to an ordinance regulating the parking of vehicles  
 296 on a highway.
- 297 (4) A county may not issue more than one infraction within a 14-day period for a violation  
 298 described in Subsection (2)(b) that is ongoing.

299 Section 9. Section **17-81-101** is amended to read:

300 **17-81-101 . Definitions.**

301 As used in this chapter:

- 302 (1) "Advisory board" means:

- 303 (a) for an agriculture protection area, the agriculture protection area advisory board  
304 created as provided in Section 17-81-102;
- 305 (b) for an industrial protection area, the industrial protection area advisory board created  
306 as provided in Section 17-81-102; and
- 307 (c) for a critical infrastructure materials protection area, the critical infrastructure  
308 materials protection area advisory board created as provided in Section 17-81-102.
- 309 (2) "Agricultural land" means the same as the term "land in agricultural use" is defined in  
310 Section 59-2-502.
- 311 (3) "Agricultural operation" means the same as that term is defined in Section 78B-6a-101.
- 312 [~~3~~] (4)(a) "Agriculture production" means production for commercial purposes of  
313 crops, livestock, and livestock products.
- 314 (b) "Agriculture production" includes the processing or retail marketing of any crops,  
315 livestock, and livestock products when more than 50% of the processed or  
316 merchandised products are produced by the farm operator.
- 317 [~~4~~] (5) "Agriculture protection area" means a geographic area created under the authority  
318 of this chapter that is granted the specific legal protections contained in this chapter.
- 319 [~~5~~] (6) "Applicable legislative body" means:
- 320 (a) with respect to a proposed agriculture protection area, industrial protection area, or  
321 critical infrastructure materials protection area:
- 322 (i) the legislative body of the county in which the land proposed to be included in the  
323 relevant protection area is located, if the land is within the unincorporated part of  
324 the county; or
- 325 (ii) the legislative body of the city or town in which the land proposed to be included  
326 in the relevant protection area is located; and
- 327 (b) with respect to an existing agriculture protection area, industrial protection area, or  
328 critical infrastructure materials protection area:
- 329 (i) the legislative body of the county in which the relevant protection area is located,  
330 if the relevant protection area is within the unincorporated part of the county; or
- 331 (ii) the legislative body of the city or town in which the relevant protection area is  
332 located.
- 333 [~~6~~] (7) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.
- 334 [~~7~~] (8) "Commercial quantities" means critical infrastructure materials:
- 335 (a) extracted or processed by a commercial enterprise in the ordinary course of business;  
336 and

- 337 (b) in a sufficient amount that the critical infrastructure materials introduction into  
 338 commerce would create a reasonable expectation of profit.
- 339 ~~[(8)]~~ (9) "Contiguous land" means surface or subsurface land that shares a common  
 340 boundary and is not separated by a highway as defined in Section 41-6a-102.
- 341 ~~[(9)]~~ (10) "Critical infrastructure materials" means sand, gravel, or rock aggregate.
- 342 ~~[(10)]~~ (11) "Critical infrastructure materials operations" means the extraction, excavation,  
 343 processing, or reprocessing of critical infrastructure materials.
- 344 ~~[(11)]~~ (12) "Critical infrastructure materials operator" means a natural person, corporation,  
 345 association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary,  
 346 agent, or other organization or representative, either public or private, including a  
 347 successor, assign, affiliate, subsidiary, and related parent company, that:
- 348 (a) owns, controls, or manages a critical infrastructure materials operation; and  
 349 (b) has produced commercial quantities of critical infrastructure materials from the  
 350 critical infrastructure materials operations.
- 351 ~~[(12)]~~ (13) "Critical infrastructure materials protection area" means a geographic area  
 352 created under the authority of this chapter on or after May 14, 2019, that is granted the  
 353 specific legal protections contained in this chapter.
- 354 ~~[(13)]~~ (14) "Critical infrastructure materials use" means the extraction, excavation,  
 355 processing, or reprocessing of critical infrastructure materials.
- 356 ~~[(14)]~~ (15) "Crops, livestock, and livestock products" includes:
- 357 (a) land devoted to the raising of useful plants and animals with a reasonable expectation  
 358 of profit, including:
- 359 (i) forages and sod crops;  
 360 (ii) grains and feed crops;  
 361 (iii) livestock, as that term is defined in Section 59-2-102;  
 362 (iv) trees and fruits; or  
 363 (v) vegetables, nursery, floral, and ornamental stock; or
- 364 (b) land devoted to and meeting the requirements and qualifications for payments or  
 365 other compensation under a crop-land retirement program with an agency of the state  
 366 or federal government.
- 367 ~~[(15)]~~ (16) "Division" means the Division of Oil, Gas, and Mining created in Section 40-6-15.
- 368 ~~[(16)]~~ (17) "Existing legal use" means a critical infrastructure materials use that has operated  
 369 in accordance with:
- 370 (a) a legal nonconforming use that has not been abandoned for more than 24 consecutive

371 months; or

372 (b) a permit issued by the applicable political subdivision.

373 ~~[(17)]~~ (18) "Industrial protection area" means a geographic area created under the authority  
374 of this chapter that is granted the specific legal protections contained in this chapter.

375 ~~[(18)]~~ (19) "Mine operator" means a natural person, corporation, association, partnership,  
376 receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other  
377 organization or representative, either public or private, including a successor, assign,  
378 affiliate, subsidiary, and related parent company, that, before January 1, 2019:

379 (a) owns, controls, or manages a mining use under a large mine permit issued by the  
380 division or the board; and

381 (b) has produced commercial quantities of a mineral deposit from the mining use.

382 ~~[(19)]~~ (20) "Mineral deposit" means the same as that term is defined in Section 40-8-4.

383 ~~[(20)]~~ (21) "Mining protection area" means land where a vested mining use occurs,  
384 including each surface or subsurface land or mineral estate that a mine operator with a  
385 vested mining use owns or controls on January 1, 2026.

386 ~~[(21)]~~ (22) "Mining use":

387 (a) means:

388 (i) the full range of activities, from prospecting and exploration to reclamation and  
389 closure, associated with the exploitation of a mineral deposit; and

390 (ii) the use of the surface and subsurface and groundwater and surface water of an  
391 area in connection with the activities described in Subsection ~~[(21)(a)(i)]~~ (22)(a)(i)  
392 that have been, are being, or will be conducted; and

393 (b) includes, whether conducted on-site or off-site:

394 (i) any sampling, staking, surveying, exploration, or development activity;

395 (ii) any drilling, blasting, excavating, or tunneling;

396 (iii) the removal, transport, treatment, deposition, and reclamation of overburden,  
397 development rock, tailings, and other waste material;

398 (iv) any removal, transportation, extraction, beneficiation, or processing of ore;

399 (v) any smelting, refining, autoclaving, or other primary or secondary processing  
400 operation;

401 (vi) the recovery of any mineral left in residue from a previous extraction or  
402 processing operation;

403 (vii) a mining activity that is identified in a work plan or permitting document;

404 (viii) the use, operation, maintenance, repair, replacement, or alteration of a building,

- 405 structure, facility, equipment, machine, tool, or other material or property that  
 406 results from or is used in a surface or subsurface mining operation or activity;
- 407 (ix) any accessory, incidental, or ancillary activity or use, both active and passive,  
 408 including a utility, private way or road, pipeline, land excavation, working,  
 409 embankment, pond, gravel excavation, mining waste, conveyor, power line,  
 410 trackage, storage, reserve, passive use area, buffer zone, and power production  
 411 facility;
- 412 (x) the construction of a storage, factory, processing, or maintenance facility; and  
 413 (xi) an activity described in Subsection 40-8-4(19)(a).
- 414 [~~(22)~~] (23)(a) "Municipal" means of or relating to a city or town.
- 415 (b) "Municipality" means a city or town.
- 416 [~~(23)~~] (24) "New land" means surface or subsurface land or mineral estate that a mine  
 417 operator gains ownership or control of, whether that land or mineral estate is included in  
 418 the mine operator's large mine permit.
- 419 [~~(24)~~] (25) "Off-site" means the same as that term is defined in Section 40-8-4.
- 420 [~~(25)~~] (26) "On-site" means the same as that term is defined in Section 40-8-4.
- 421 [~~(26)~~] (27)(a) "Open land" means land that is:
- 422 (i) preserved in or restored to a predominantly natural, open, and undeveloped  
 423 condition; and
- 424 (ii) used for:
- 425 (A) wildlife habitat;
- 426 (B) cultural or recreational use;
- 427 (C) watershed protection; or
- 428 (D) another use consistent with the preservation of the land in, or restoration of  
 429 the land to, a predominantly natural, open, and undeveloped condition.
- 430 (b) "Open land" includes land described in Subsection [~~(26)(a)~~] (27)(a) that contains  
 431 facilities, including trails, waterways, and grassy areas, that, in the judgment of the  
 432 county legislative body:
- 433 (i) enhance the natural, scenic, or aesthetic qualities of the land; or  
 434 (ii) facilitate the public's access to, or use of, the land for the enjoyment of the land's  
 435 natural, scenic, or aesthetic qualities and for compatible recreational activities.
- 436 (c) "Open land" does not include land whose predominant use is as a developed facility  
 437 for active recreational activities played on fields or courses, including baseball,  
 438 tennis, soccer, golf, or other sporting or similar activities.

439 [(27)] (28) "Planning commission" means:

- 440 (a) a countywide planning commission if the land proposed to be included in the  
 441 agriculture protection area, industrial protection area, or critical infrastructure  
 442 materials protection area is within the unincorporated part of the county and not  
 443 within a planning advisory area;
- 444 (b) a planning advisory area planning commission if the land proposed to be included in  
 445 the agriculture protection area, industrial protection area, or critical infrastructure  
 446 materials protection area is within a planning advisory area; or
- 447 (c) a planning commission of a city or town if the land proposed to be included in the  
 448 agriculture protection area, industrial protection area, or critical infrastructure  
 449 materials protection area is within a city or town.

450 [(28)] (29) "Political subdivision" means a county, city, town, school district, special  
 451 district, or special service district.

452 [(29)] (30) "Proposal sponsors" means the owners of land in agricultural production,  
 453 industrial use, or critical infrastructure materials operations who are sponsoring the  
 454 proposal for creating an agriculture protection area, industrial protection area, or critical  
 455 infrastructure materials protection area.

456 [(30)] (31) "Public land county" means a county in which over 50% of the land area is  
 457 publicly owned.

458 [(31)] (32) "Rollback tax funds" means the rollback taxes or in lieu fee payments paid to a  
 459 county in accordance with Sections 59-2-506, 59-2-511, 59-2-1705, and 59-2-1710.

460 [(32)] (33) "State agency" means each department, commission, board, council, agency,  
 461 institution, officer, corporation, fund, division, office, committee, authority, laboratory,  
 462 library, unit, bureau, panel, or other administrative unit of the state.

463 [(33)] (34) "Unincorporated" means not within a city or town.

464 [(34)] (35) "Vested critical infrastructure materials use" means a critical infrastructure  
 465 materials operations use by a critical infrastructure materials operator that is an existing  
 466 legal use.

467 [(35)] (36) "Vested mining use" means a mining use:

- 468 (a) by a mine operator; and
- 469 (b) that existed or was conducted or otherwise engaged in before a political subdivision  
 470 prohibits, restricts, or otherwise limits a mining use.

471 Section 10. Section **17-81-304** is amended to read:

472 **17-81-304 . Public nuisance ordinances.**

- 473 (1) A political subdivision shall ensure that any of the political subdivision's laws or  
 474 ordinances that define or prohibit a public nuisance exclude from the definition or  
 475 prohibition:
- 476 (a) for an agriculture protection area, any agricultural activity or operation within an  
 477 agriculture protection area conducted using sound agricultural practices unless that  
 478 activity or operation bears a direct relationship to public health or safety;
- 479 (b) for an industrial protection area, any industrial use of the land within the industrial  
 480 protection area that is consistent with sound practices applicable to the industrial use,  
 481 unless that use bears a direct relationship to public health or safety; or
- 482 (c) for a critical infrastructure materials protection area, any critical infrastructure  
 483 materials operations on the land within the critical infrastructure materials protection  
 484 area that is consistent with sound practices applicable to the critical infrastructure  
 485 materials operations, unless that use bears a direct relationship to public health or  
 486 safety.

487 (2)(a) For an agricultural protection area, an ordinance of a political subdivision does not  
 488 apply to an agricultural operation that is conducted in the normal and ordinary course  
 489 of an agricultural operation or conducted in accordance with sound agricultural  
 490 practices if that ordinance:

- 491 (i) would make the agricultural operation, or appurtenances to the agricultural  
 492 operation, a public nuisance; or
- 493 (ii) provides for abatement of the agricultural operation as a public nuisance.
- 494 (b) An agricultural operation undertaken in conformity with federal, state, and local laws  
 495 and regulations, including zoning ordinances, is presumed to be operating within  
 496 sound agricultural practices.

497 ~~[(2) In a civil action for nuisance or a criminal action for public nuisance under Section~~  
 498 ~~76-9-1301, it is a complete defense if the action involves agricultural activities and:]~~

499 ~~[(a) those agricultural activities were:]~~

500 ~~[(i) conducted within an agriculture protection area; and]~~

501 ~~[(ii) not in violation of any federal, state, or local law or regulation relating to the~~  
 502 ~~alleged nuisance or were conducted according to sound agricultural practices; or]~~

503 ~~[(b) a defense under Section 4-44-201 applies.]~~

504 (3)(a) A vested mining use undertaken in conformity with applicable federal and state  
 505 law and regulations is presumed to be operating within sound mining practices.

506 (b) A vested mining use that is consistent with sound mining practices:

- 507 (i) is presumed to be reasonable; and
- 508 (ii) may not constitute a [~~private or public nuisance~~] private nuisance or public
- 509 nuisance under Title 78B, Chapter 6a, Civil Actions for Nuisance, or a public
- 510 nuisance under Section 76-9-1301.
- 511 (c) A vested mining use in operation for more than three years may not be considered to
- 512 have become a private or public nuisance because of a subsequent change in the
- 513 condition of land within the vicinity of the vested mining use.
- 514 (4) The county recorder shall, from time to time, ensure compliance with Section 17-79-716
- 515 in regard to subdivision development near a protection area.
- 516 Section 11. Section **23A-13-303** is amended to read:
- 517 **23A-13-303 . County public nuisance laws.**
- 518 (1)(a) A county shall exclude the activities described in Subsection (1)(b) from the
- 519 definition of public nuisance in a county law or ordinance regulating a public
- 520 nuisance.
- 521 (b) An activity or occurrence normally associated with a migratory bird production area
- 522 is not a nuisance, including:
- 523 (i) hunting;
- 524 (ii) discharging a firearm;
- 525 (iii) improving habitat;
- 526 (iv) trapping;
- 527 (v) eradicating weeds;
- 528 (vi) discing;
- 529 (vii) planting;
- 530 (viii) impounding water;
- 531 (ix) raising a bird or other domestic animal;
- 532 (x) grazing;
- 533 (xi) an activity conducted in the normal course of an agricultural operation as defined
- 534 in Section [~~4-44-102~~] 78B-6a-101; and
- 535 (xii) an odor.
- 536 [(2) In a civil action for nuisance or a criminal action for public nuisance under Section
- 537 76-9-1301, it is a complete defense if the action is:]
- 538 [(a) normally associated with a migratory bird production area;]
- 539 [(b) conducted within a migratory bird production area; and]
- 540 [(c) not in violation of federal or state law.]

541 [(3)] (2) An owner of a new development located in whole or in part within 1,000 feet of a  
 542 migratory bird production area shall provide the following notice on a plat filed with the  
 543 county recorder:

544 "Migratory Bird Production Area

545 This property is located in the vicinity of an established migratory bird production area  
 546 in which hunting and activities related to the management and operation of land for the benefit  
 547 of migratory birds have been afforded the highest priority use status. It can be anticipated that  
 548 these uses and activities may now or in the future be conducted on land within the migratory  
 549 bird production area. The use and enjoyment of this property is expressly conditioned on  
 550 acceptance of any annoyance or inconvenience that may result from activities normally  
 551 associated with a migratory bird production area."

552 Section 12. Section **40-11-13** is amended to read:

553 **40-11-13 . Reservoir integrity.**

- 554 (1) Carbon dioxide injected into and stored in a reservoir in compliance with the  
 555 requirements of this section is not:
- 556 (a) pollution, as that term is defined in Section 4-18-103; or  
 557 (b) a private nuisance or a public nuisance, as defined in Section 78B-6a-101.  
 558 [~~(b) a nuisance, as that term is defined in Section 4-44-102.~~]
- 559 (2) A reservoir is only appropriate for geologic carbon storage if the board determines and  
 560 the operator demonstrates that:
- 561 (a) carbon dioxide cannot escape the reservoir at a rate exceeding the lower of 1% or the  
 562 standard recommended by the Environmental Protection Agency;  
 563 (b) no additional substances will be introduced into the storage facility that could  
 564 compromise the integrity of the storage reservoir; and  
 565 (c) the operator has a plan to maintain the integrity of the reservoir.
- 566 (3) When making a determination described in Subsection (2), the board may rely upon:
- 567 (a) a finding from the Utah Geological Survey, created in Section 79-3-201 that the  
 568 reservoir is appropriate for the storage of carbon dioxide; and  
 569 (b) reports and findings from the Department of Environmental Quality, created in  
 570 Section 19-1-104.
- 571 (4) The board shall take action to enforce the provisions of this section.

572 Section 13. Section **53-5a-701**, which is renumbered from Section 47-3-102 is renumbered  
 573 and amended to read:

574 **Part 7. Shooting Ranges**

575 **[47-3-102] 53-5a-701 . Definitions.**

576 As used in this [chapter] part:

- 577 (1) "Air gun" means a .177 or .20 caliber, or equivalent 4.5mm or 5.0mm, pellet rifle or  
578 pellet pistol whose projectile is pneumatically propelled by compressed air or  
579 compressed gas such as carbon dioxide.
- 580 (2) "Certified official" means a [~~Range Safety Officer, Firearms Instructor, or Shooting~~  
581 ~~Coach~~] range safety officer, firearms instructor, or shooting coach certified by the  
582 National Rifle Association or equivalent national shooting organization.
- 583 (3) "Group" means any organized club, organization, corporation or association which at  
584 the time of use of the shooting range has a certified official in charge while shooting is  
585 taking place and while the range is open.
- 586 (4) "Military range" means a shooting range located on a state military installation.
- 587 (5) "Nonmilitary range" means a shooting range that is not a military range.
- 588 (6) "Political subdivision" has the same meaning as defined in Section 17B-1-102 and  
589 includes a school district.
- 590 (7) "Public funds" means funds provided by the federal government, the state, or a political  
591 subdivision of the state.
- 592 (8) "Shooting range" or "range" means an area designed and continuously operated under  
593 nationally recognized standards and operating practices for the use of rifles, shotguns,  
594 pistols, silhouettes, skeet, trap, black powder, archery, or any other similar shooting  
595 activities.

596 Section 14. Section **53-5a-702**, which is renumbered from Section 47-3-201 is renumbered  
597 and amended to read:

598 **[47-3-201] 53-5a-702 . Assumption of risk.**

- 599 (1) A person who participates in shooting at a shooting range or a public shooting  
600 range accepts the associated risks to the extent the risks are obvious and inherent. [  
601 ~~Those risks~~]
- 602 (2) The risks described in Subsection (1) include injuries that may result from noise,  
603 discharge of projectile or shot, malfunction of shooting equipment not owned by the  
604 shooting range or public shooting range, natural variations in terrain, surface or  
605 subsurface snow or ice conditions, bare spots, rocks, trees, and other forms of natural  
606 growth or debris.

607 Section 15. Section **53-5a-703**, which is renumbered from Section 47-3-202 is renumbered  
608 and amended to read:

609            **[47-3-202] 53-5a-703 . Shooting range as a public nuisance -- Notice for new**  
 610 **subdivision development.**

611 (1) A state agency or political subdivision shall ensure that any of [its] the state agency's or  
 612 political subdivision's rules or ordinances that define or prohibit a public nuisance  
 613 exclude from the definition or prohibition any shooting range or public shooting range  
 614 that was established, constructed, or operated [~~prior to~~] before the implementation of the  
 615 rule or ordinance regarding public nuisance unless that activity or operation substantially  
 616 and adversely affects public health or safety.

617 [~~(2) A person who operates or uses a shooting range or a public shooting range in this state~~  
 618 ~~is not subject to civil liability or criminal prosecution for noise or noise pollution~~  
 619 ~~resulting from the operation or use of the range if:]~~

620 [~~(a) the range:]~~

621            [~~(i) was established, constructed, or operated prior to the implementation of any noise~~  
 622            ~~ordinances, rules, or regulations; and]~~

623            [~~(ii) does not substantially and adversely affect public health or safety; or]~~

624 [~~(b) the range:]~~

625            [~~(i) is in compliance with any noise control laws, ordinances, rules, or regulations~~  
 626            ~~that applied to the range or public shooting range and its operation at the time of~~  
 627            ~~establishment, construction, or initial operation of the range; and]~~

628            [~~(ii) does not substantially and adversely affect public health or safety.]~~

629 [~~(3) For purposes of this section, noise generated by a shooting range or public shooting~~  
 630 ~~range that is operated in accordance with nationally recognized standards and operating~~  
 631 ~~practices is not a public health nuisance.]~~

632 [~~(4)] (2) For any new subdivision development located in whole or in part within 1,000 feet~~  
 633 ~~of the boundary of any shooting range or public shooting range that was established,~~  
 634 ~~constructed, or operated [~~prior to~~] before the development of the subdivision, the owner~~  
 635 ~~of the development shall provide on any plat filed with the county recorder the following~~  
 636 ~~notice:~~

637            "Shooting Range Area

638            This property is located in the vicinity of an established shooting range or public  
 639 shooting range. It can be anticipated that customary uses and activities at this shooting  
 640 range or public shooting range will be conducted now and in the future. The use and  
 641 enjoyment of this property is expressly conditioned on acceptance of any annoyance or  
 642 inconvenience that may result from these uses and activities."

643 Section 16. Section **53-5a-704**, which is renumbered from Section 47-3-301 is renumbered  
644 and amended to read:

645 **[47-3-301] 53-5a-704 . Access to publicly funded ranges.**

646 A shooting range, whether indoor or outdoor, constructed with public funds and  
647 operated or controlled by the state, an institution of higher education, or a political subdivision,  
648 shall, unless specifically exempted in Section [47-3-305] 53-5a-708, be made available as  
649 provided in this section for use by any group.

650 Section 17. Section **53-5a-705**, which is renumbered from Section 47-3-302 is renumbered  
651 and amended to read:

652 **[47-3-302] 53-5a-705 . Use and availability.**

- 653 (1) Use of a shooting range by a group may not interfere with the use of the range by the  
654 state agency, military, institution of higher education, or political subdivision for whom  
655 the range was constructed.
- 656 (2) Outdoor shooting ranges shall be available on weekends and holidays, provided they are  
657 not being used for shooting and training purposes by the owner or operator of the range.
- 658 (3)(a) Each group that uses a shooting range owned or operated by a state agency,  
659 institution of higher education, or political subdivision shall provide a certified  
660 official to oversee their shooting activities while on the range.
- 661 (b) If the group does not have a certified official that is currently available, the owner or  
662 operator of the shooting range may provide one and charge a fee for that certified  
663 official's time.
- 664 (4) A group using a public shooting range may not have anyone with the group who is  
665 prohibited from possessing a firearm.
- 666 (5) Each group shall provide documentation of current and applicable liability insurance or  
667 waivers of liability to cover each state agency, institution of higher education, or a  
668 political subdivision, for each person shooting on or controlling the shooting range.
- 669 (6) Shooting range operations shall be in accordance with safety standards adopted by the  
670 National Rifle Association or equivalent national shooting organization.
- 671 (7) Staff from the owner or operator of the shooting range is not required to be present  
672 unless there is no certified official present with the group.
- 673 (8) The certified official in charge at the applicable time shall be responsible for opening  
674 and securely closing the shooting range.

675 Section 18. Section **53-5a-706**, which is renumbered from Section 47-3-303 is renumbered  
676 and amended to read:

677 **[47-3-303] 53-5a-706 . Rulemaking.**

- 678 (1) The State Armory Board, any state agency, or institution of higher education that  
 679 operates or has control of a shooting range shall make rules in accordance with Title  
 680 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement procedures for use  
 681 of the range by the public.
- 682 (2) The rules shall include provisions requiring indoor shooting ranges to be available on a  
 683 reservation basis, for firearms not exceeding the range design criteria:
- 684 (a) at least twice per week;
- 685 (b) after 4 p.m. on work or school days, or after students and faculty are excused or  
 686 dismissed on the work or school day; and
- 687 (c) between 8 a.m. and 10 p.m. on weekends.

688 Section 19. Section **53-5a-707**, which is renumbered from Section 47-3-304 is renumbered  
 689 and amended to read:

690 **[47-3-304] 53-5a-707 . Fees.**

- 691 (1) Reasonable fees for the use of a shooting range to cover the incidental material and  
 692 supply costs incurred by making the range available to a group, may be established by:
- 693 (a) the State Armory Board established under Title 39A, Chapter 2, State Armory Board,  
 694 for a military range; and
- 695 (b) for a nonmilitary range, the state agency, institution of higher education, or political  
 696 subdivision that operates or has control of the range.
- 697 (2) Fees for nonmilitary shooting range use may not exceed fees charged by the Department  
 698 of Natural Resources for the same or similar activity.
- 699 (3) Fees collected under Subsection (1) shall be:
- 700 (a) for a shooting range operated or controlled by a state agency or an institution of  
 701 higher education, deposited ~~in~~ into the General Fund as dedicated credits to be used  
 702 for the operation and maintenance of the range; and
- 703 (b) for a shooting range operated or controlled by a political subdivision, deposited in  
 704 the political subdivision's general fund.

705 Section 20. Section **53-5a-708**, which is renumbered from Section 47-3-305 is renumbered  
 706 and amended to read:

707 **[47-3-305] 53-5a-708 . Exceptions and prohibitions.**

- 708 (1) ~~[This part does]~~ Sections 53-5a-704 through 53-5a-707 do not apply to:
- 709 (a) shooting ranges that are otherwise open to the public;
- 710 (b) shooting ranges that are operated as a public shooting range staffed by and operated

- 711 by Division of Wildlife Resources;
- 712 (c) the Utah National Guard ranges located at Camp Williams and the Salt Lake
- 713 International Airport;
- 714 (d) Department of Corrections ranges; and
- 715 (e) ranges owned, operated, or currently leased as of March 26, 2013, by a state or local
- 716 public safety agency.

717 (2)(a) Firearms may not be allowed in a school building, except under the provision of

718 Section 76-11-205 or 76-11-205.5, unless there is an outdoor entrance to the shooting

719 range and the most direct access to the range is used.

720 (b) An outdoor entrance to a shooting range may not be blocked by fences, structures, or

721 gates for the purpose of blocking the outdoor entrance.

722 (3)(a) Only air guns may be used in public ranges where the ventilation systems do not

723 meet current OSHA standards as applied to the duration of exposure of the

724 participants.

725 (b) For the purposes of this part, an air gun does not include larger caliber pneumatic

726 weapons, paintball guns, or air shotguns.

727 (4) Group range use is a lawful, approved activity under Subsection 76-11-205(4)(f) or

728 76-11-205.5(4)(g).

729 Section 21. Section **72-6-112.5** is amended to read:

730 **72-6-112.5 . Definitions -- Nighttime highway construction noise -- Exemptions --**

731 **Permits.**

732 (1) As used in this section:

733 (a) "Commuter rail" means the same as that term is defined in Section 63N-3-602.

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

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

736 (B) within 800 feet of a transportation facility that is within a commercial or

737 industrialized area.

738 (ii) "Front row receptor" includes a residence that is contiguous to a property

739 immediately adjacent to a transportation facility in a residential area.

740 (c) "Nighttime construction" means highway or public transit facility construction

741 occurring between the hours of 10:00 p.m. and 7:00 a.m.

742 [~~(d) "Nuisance" means the same as that term is defined in Section 78B-6-1101.]~~

743 [(~~e~~)] (d)(i) "Permitted activities" means activities occurring between the hours of 7:00

744 p.m. and 7:00 a.m. that are related to and necessary for nighttime construction,

- 745 whether occurring at the construction site or at a gravel pit or other site for  
746 production of raw materials, and includes:
- 747 (A) loading and unloading of trucks;
  - 748 (B) asphalt mixing and hauling; and
  - 749 (C) concrete mixing and hauling.
- 750 (ii) "Permitted activities" does not include:
- 751 (A) blasting; or
  - 752 (B) crushing.
- 753 (e) "Private nuisance" means the same as that term is defined in Section 78B-6a-101.
- 754 (2) The following projects are exempt from any noise ordinance, regulation, or standard of  
755 a local jurisdictional authority:
- 756 (a) a state highway construction project conducted on a road where the normal posted  
757 speed limit is 55 miles per hour or greater; or
  - 758 (b) a commuter rail construction project.
- 759 (3) Except for a project described in Subsection (2), a state highway or a public transit  
760 facility construction project is exempt from any noise ordinance, regulation, or standard  
761 of a local jurisdictional authority if the department:
- 762 (a) provides reasonable written notice at least 48 hours in advance of any required  
763 nighttime construction to each residential dwelling located within front row receptors  
764 of the activity;
  - 765 (b) determines a net community, including traveler community, benefit exists to conduct  
766 nighttime highway construction after considering the following:
    - 767 (i) public health;
    - 768 (ii) project completion time;
    - 769 (iii) air quality;
    - 770 (iv) traffic;
    - 771 (v) economics;
    - 772 (vi) safety; and
    - 773 (vii) local jurisdiction concerns; and
  - 774 (c) institutes best management noise reduction practices, as determined by the  
775 department, for front row receptors, in consultation with local government or the  
776 local jurisdictional authority for all nighttime construction, which may include:
    - 777 (i) equipment maintenance;
    - 778 (ii) noise shielding;

- 779 (iii) scheduling the most noise intrusive activities during the day; and  
780 (iv) other noise mitigation methods.
- 781 (4)(a) Subject to Subsection (2) or (3), a state highway project or public transit facility  
782 construction shall secure required noise permits from the local jurisdictional authority  
783 to conduct nighttime construction.
- 784 (b) To the extent practical, the department shall coordinate with the local jurisdictional  
785 authority during the pre-construction phase of a project to address noise exemption  
786 conditions.
- 787 (5) A local jurisdictional authority shall issue a nighttime construction permit limited to  
788 permitted activities if:
- 789 (a) the applicant provides evidence that the permitted activities are directly related to and  
790 necessary for a nighttime construction project for which the department has obtained  
791 a noise permit from a local jurisdictional authority [~~pursuant to~~] in accordance with  
792 Subsection (4); and
- 793 (b) the local jurisdictional authority determines that any private nuisance that may be  
794 caused by the nighttime construction may be reasonably mitigated.
- 795 (6) A local jurisdictional authority shall issue a nighttime construction noise permit without  
796 additional requirements to the department at the request of the department or the  
797 department's designated project agent if the requirements of Subsection (2) or (3) are  
798 met.
- 799 (7)(a) A local jurisdictional authority may request adjustments to a nighttime  
800 construction permit to mitigate unreasonable noise disturbances caused by nighttime  
801 construction or permitted activities.
- 802 (b) If adjustments are requested as described in Subsection (7)(a), the nighttime  
803 construction permit holder shall use best management noise reduction practices to  
804 mitigate unreasonable noise disturbances.
- 805 (8)(a) For the exemption provided in Subsection (3) and in accordance with Title 63G,  
806 Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules  
807 establishing procedures:
- 808 (i) for a local jurisdictional authority or local government to appeal the decision of  
809 the department to conduct nighttime construction; and
- 810 (ii) for the local jurisdictional authority to request that the department enforce the  
811 terms of a noise permit.
- 812 (b) After review and upon receiving a written notice from a local jurisdictional authority

813 that the conditions for the noise exemption permit are not met, the department shall  
 814 take corrective action to ensure nighttime construction activities meet requirements  
 815 of the local permit.

816 Section 22. Section **76-5c-103** is amended to read:

817 **76-5c-103 . Relation to other state and local laws.**

818 (1)(a) A county, city, or other political subdivision has the right to regulate pornographic  
 819 materials or materials harmful to minors as this chapter does not proscribe or limit  
 820 the regulation of pornographic materials or materials harmful to minors by a county,  
 821 city, or other political subdivision.

822 (b) Without limitation, a political subdivision may further regulate pornographic  
 823 materials or materials harmful to minors by ordinances relating to:

824 (i) zoning;

825 (ii) licensing;

826 (iii) public nuisances;

827 (iv) a specific type of business such as adult bookstores or drive-in movies; or

828 (v) use of blinder racks.

829 (2) This chapter does not preclude the application of other laws of this state to pornographic  
 830 materials or materials harmful to minors and, without limitation, this chapter is not in  
 831 derogation of Subsection 76-9-1301(2) and Section [76-9-1306] 78B-6a-204.

832 (3)(a) The commission of a crime under this chapter offends public decency under  
 833 Subsection 76-9-1301(2).

834 (b) It is the intent of this chapter to give the broadest meaning permissible under the  
 835 United States Constitution and the Utah Constitution to the words "offends public  
 836 decency" in Subsection 76-9-1301(2).

837 Section 23. Section **76-9-1301** is amended to read:

838 **76-9-1301 . Definitions.**

839 As used in this part:

840 (1) "Agricultural operation" means the same as that term is defined in Section 78B-6a-101.

841 (2) "Agricultural protection area" means the same as that term is defined in Section  
 842 17-18-101.

843 [(4)] (3) "Controlled substance" means the same as that term is defined in Section 58-37-2.

844 (4) "Critical infrastructure materials operation" means the same as the term "critical  
 845 infrastructure materials use" is defined in Section 10-20-701.

846 (5) "Manufacturing facility" means the same as that term is defined in Section 78B-6a-101.

- 847 (6) "Migratory bird production area" means the same as that term is defined in Section  
 848 23A-13-101.
- 849 [(2)] (7) "Nuisance" means an item, thing, manner, or condition that:
- 850 (a) is dangerous to human life or health; or
- 851 (b) renders soil, air, water, or food impure or unwholesome.
- 852 [(3)] (8)(a) "Public nuisance" means unlawfully committing an act or omitting to perform  
 853 a duty~~[, which]~~ and the act or duty:
- 854 (i) annoys, injures, or endangers the comfort, repose, health, or safety of three or  
 855 more persons, regardless of the extent to which the annoyance, injury, or  
 856 endangerment inflicted on the persons is unequal;
- 857 (ii) offends public decency;
- 858 (iii) unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous  
 859 for passage, a lake, stream, canal, or basin, or a public park, square, street, or  
 860 highway;
- 861 (iv) is a ~~[nuisance as described in Section 78B-6-1107, Nuisance -- Drug houses and~~  
 862 ~~drug dealing -- Gambling -- Group criminal activity -- Party house -- Prostitution~~  
 863 ~~-- Weapons -- Abatement by eviction]~~ private nuisance as defined in Section  
 864 78B-6a-101; or
- 865 (v) renders three or more persons insecure in life or the use of property, regardless of  
 866 the extent to which the effect inflicted on the persons is unequal.
- 867 (b) "Public nuisance" ~~[is presumed to]~~ does not include:
- 868 (i) ~~[activities]~~ an activity conducted in the normal and ordinary course of ~~[agricultural~~  
 869 ~~operations, as defined in Section 4-44-102,]~~ an agricultural operation and  
 870 conducted in accordance with sound agricultural practices, with the presumption  
 871 that ~~[agricultural operations]~~ an agricultural operation undertaken in conformity  
 872 with federal, state, and local laws and regulations, including zoning ordinances, [  
 873 ~~are]~~ is operating within sound agricultural practices; ~~[or]~~
- 874 (ii) ~~[activities]~~ an activity conducted in the normal and ordinary course of ~~[critical~~  
 875 ~~infrastructure materials operations, as defined in Section 78B-6-1101,]~~ a critical  
 876 infrastructure materials operation and conducted in accordance with sound critical  
 877 infrastructure materials practices, with the presumption that a critical  
 878 infrastructure materials ~~[operations]~~ operation undertaken in conformity with  
 879 federal, state, and local laws and regulations, including zoning ordinances, ~~[are]~~ is  
 880 operating within sound critical infrastructure materials ~~[operations,]~~ practices;

- 881            (iii) an activity normally associated with a migratory bird production area, that is  
 882            conducted within a migratory bird production area, and is not in violation of state  
 883            or federal law;
- 884            (iv) an activity at a manufacturing facility if the manufacturing facility has a defense  
 885            against a civil action for the activity under Section 78B-6a-402;
- 886            (v) noise or noise pollution resulting from the operation or use of a shooting range if  
 887            the shooting range:
- 888            (A)(I) was established, constructed, or operated before the implementation of  
 889            any noise ordinances, rules, or regulations; and
- 890            (II) does not substantially and adversely affect public health or safety; or
- 891            (B)(I) is in compliance with any noise control laws, ordinances, rules, or  
 892            regulations that applied to the shooting range and the shooting range's  
 893            operation at the time of establishment, construction, or initial operation of  
 894            the range; and
- 895            (II) does not substantially and adversely affect public health or safety; or
- 896            (vi) noise generated by a shooting range that is operated in accordance with  
 897            nationally recognized standards and operating practices.
- 898            (9) "Shooting range" means the same as that term is defined in Section 53-5a-701.
- 899            [(4)] (10)(a) "Supervised drug consumption site" means a facility or premises operated or  
 900            intended to provide an environment for the unlawful use of a controlled substance.
- 901            (b) "Supervised drug consumption site" does not include a facility or premises that  
 902            provides or facilitates:
- 903            (i) an opioid treatment program, as that term is defined in Section 58-17b-309.7; or
- 904            (ii) the use of medication pursuant to a medication assisted treatment plan, as that  
 905            term is defined in Section 64-13-25.1.

906            Section 24. Section **78B-6-802** is amended to read:

907            **78B-6-802 . Unlawful detainer by tenant for a term less than life.**

- 908            (1) A tenant holding real property for a term less than life is guilty of an unlawful detainer  
 909            if the tenant:
- 910            (a) continues in possession, in person or by subtenant, of the property or any part of the  
 911            property, after the expiration of the specified term or period for which it is let to the  
 912            tenant, which specified term or period, whether established by express or implied  
 913            contract, or whether written or parol, shall be terminated without notice at the  
 914            expiration of the specified term or period;

- 915 (b) having leased real property for an indefinite time with monthly or other periodic rent  
916 reserved:
- 917 (i) continues in possession of the property in person or by subtenant after the end of  
918 any month or period, in cases where the owner, the owner's designated agent, or  
919 any successor in estate of the owner, 15 calendar days or more before the end of  
920 that month or period, has served notice requiring the tenant to quit the premises at  
921 the expiration of that month or period; or
- 922 (ii) in cases of tenancies at will, remains in possession of the premises after the  
923 expiration of a notice of not less than five calendar days;
- 924 (c) continues in possession, in person or by subtenant, after default in the payment of  
925 any rent or other amounts due and after a notice in writing requiring in the alternative  
926 the payment of the rent and other amounts due or the surrender of the detained  
927 premises, has remained uncomplied with for a period of three business days after  
928 service, which notice may be served at any time after the rent becomes due;
- 929 (d) assigns or sublets the leased premises contrary to the covenants of the lease, or  
930 commits or permits waste on the premises after service of a three calendar days'  
931 notice to quit;
- 932 (e) sets up or carries on any unlawful business on or in the premises after service of a  
933 three calendar days' notice to quit;
- 934 (f) suffers, permits, or maintains on or about the premises any nuisance, including  
935 private nuisance as defined in Section 78B-6-1107 after service of a three calendar  
936 days' notice to quit;
- 937 (g) commits a criminal act on the premises and remains in possession after service of a  
938 three calendar days' notice to quit;
- 939 (h) continues in possession, in person or by subtenant, after a neglect or failure to  
940 perform any condition or covenant of the lease or agreement under which the  
941 property is held, other than those previously mentioned, and after notice in writing  
942 requiring in the alternative the performance of the conditions or covenant or the  
943 surrender of the property, served upon the tenant and upon any subtenant in actual  
944 occupation of the premises remains uncomplied with for three calendar days after  
945 service; or
- 946 (i)(i) is a tenant under a bona fide tenancy as described in Section 702 of the  
947 Protecting Tenants at Foreclosure Act; and
- 948 (ii) continues in possession after the effective date of a notice to vacate given in

- 949 accordance with Section 702 of the Protecting Tenants at Foreclosure Act.
- 950 (2) After service of the notice and the time period required for the notice, the tenant, any  
 951 subtenant in actual occupation of the premises, any mortgagee of the term, or other  
 952 person interested in the lease's continuance may perform the condition or covenant and  
 953 save the lease from forfeiture, except that if the covenants and conditions of the lease  
 954 violated by the lessee cannot afterwards be performed, or the violation cannot be  
 955 brought into compliance, a notice provided for in Subsections (1)(d) through (g) may be  
 956 given.
- 957 (3) Unlawful detainer by an owner resident of a mobile home is determined under Title 57,  
 958 Chapter 16, Mobile Home Park Residency Act.
- 959 (4) The notice provisions for nuisance in Subsections (1)(d) through (g) do not apply to [  
 960 ~~nuisance actions provided in Sections 78B-6-1107 through 78B-6-1114]~~ an action for  
 961 abatement by eviction of a private nuisance as described in Section 78B-6a-303.
- 962 (5) The notice to vacate requirement under 15 U.S.C. Sec. 9058(c), which is part of the  
 963 Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136:
- 964 (a) applies only to a notice provided to a tenant of a covered dwelling in a covered  
 965 property as that term is defined in 15 U.S.C. Sec. 9058(a);
- 966 (b) applies only to the amount of time before a tenant may be required to vacate a  
 967 covered property through an order of restitution as provided by Section 78B-6-812;
- 968 (c) for a notice provided under Subsection (1)(c), applies only when delinquent rent or  
 969 other amounts have accrued during the 120-day moratorium described in 15 U.S.C.  
 970 Sec. 9058(b);
- 971 (d) does not require that a tenant be given more than three business days after service to  
 972 pay rent and other amounts due under a notice provided under Subsection (1)(c);
- 973 (e) does not apply to a notice provided under Subsections (1)(d) through (h);
- 974 (f) does not prohibit or nullify the service of any notice described in this section; and
- 975 (g) does not limit the accrual of damages under Section 78B-6-811.
- 976 (6) Service of a notice as provided by 15 U.S.C. Sec. 9058(c) or under Subsection (5) does  
 977 not nullify the service or validity of any other notice provided in accordance with this  
 978 section.

979 Section 25. Section **78B-6-805** is amended to read:

980 **78B-6-805 . Notice -- How served.**

- 981 (1) A notice required by this part may be served:
- 982 (a) by delivering a copy to the tenant personally or, if the tenant is a commercial tenant,

- 983 by delivering a copy to the commercial tenant's usual place of business by leaving a  
984 copy of the notice with a person of suitable age and discretion;
- 985 (b) by sending a copy through registered mail, certified mail, or an equivalent means,  
986 addressed to the tenant at the tenant's residence, leased property, or usual place of  
987 business;
- 988 (c) if the tenant is absent from the residence, leased property, or usual place of business,  
989 by leaving a copy with a person of suitable age and discretion at the tenant's  
990 residence, leased property, or usual place of business;
- 991 (d) if a person of suitable age or discretion cannot be found at the place of residence,  
992 leased property, or usual place of business, then by affixing a copy in a conspicuous  
993 place on the leased property; or
- 994 (e) if an order of abatement by eviction of the nuisance is issued by the court as provided  
995 in Section ~~[78B-6-1109]~~ 78B-6a-303, when issued, the parties present shall be on  
996 notice that the abatement by eviction order is issued and immediately effective or as  
997 to any absent party, notice shall be given as provided in Subsections (1)(a) through [  
998 ~~(e)~~] (d).

- 999 (2) Service upon a subtenant may be made in the same manner as provided in Subsection (1).  
1000 Section 26. Section **78B-6-806** is amended to read:

1001 **78B-6-806 . Necessary parties defendant.**

- 1002 (1)(a) No person other than the tenant of the premises, a lease signer, and subtenant if  
1003 there is one in the actual occupation of the premises when the action is commenced,  
1004 may be made a party defendant in the proceeding, except as provided in Section [  
1005 ~~78B-6-1111]~~ 78B-6a-303.
- 1006 (b) A proceeding may not abate, nor the plaintiff be nonsuited, for the nonjoinder of any  
1007 person who might have been made a party defendant.
- 1008 (c) If it appears that any of the parties served with process or appearing in the  
1009 proceedings are guilty, judgment shall be rendered against those parties.
- 1010 (2)(a) If a person has become a subtenant of the premises in controversy after the service  
1011 of any notice as provided in this part, the fact that the notice was not served on the  
1012 subtenant is not a defense to the action.
- 1013 (b) All persons who enter under the tenant after the commencement of the action shall  
1014 be bound by the judgment the same as if they had been made parties to the action.
- 1015 (3) A landlord, owner, or designated agent is a necessary party defendant only in an  
1016 abatement by eviction action for an unlawful drug house [~~as provided in Section~~

- 1017 78B-6-1111] under Section 78B-6a-303.
- 1018 Section 27. Section **78B-6-811** is amended to read:
- 1019 **78B-6-811 . Judgment for restitution, damages, and rent -- Immediate**
- 1020 **enforcement -- Remedies.**
- 1021 (1)(a) A court may:
- 1022 (i) enter a judgment upon the merits or upon default; and
- 1023 (ii) issue an order of restitution regardless of whether a judgment is entered.
- 1024 (b) A judgment entered in favor of the plaintiff shall include an order for the restitution
- 1025 of the premises as provided in Section 78B-6-812.
- 1026 (c) If the proceeding is for unlawful detainer after neglect or failure to perform any
- 1027 condition or covenant of the lease or agreement under which the property is held, or
- 1028 after default in the payment of rent, the judgment shall also declare the forfeiture of
- 1029 the lease or agreement.
- 1030 (d)(i) A forfeiture under Subsection (1)(c) does not release a defendant from any
- 1031 obligation for payments on a lease for the remainder of the lease's term.
- 1032 (ii) Subsection (1)(d)(i) does not change any obligation on either party to mitigate
- 1033 damages.
- 1034 (2) The jury or the court, if the proceeding is tried without a jury or upon the defendant's
- 1035 default, shall also assess the damages resulting to the plaintiff from any of the following:
- 1036 (a) forcible entry;
- 1037 (b) forcible or unlawful detainer;
- 1038 (c) waste of the premises during the defendant's tenancy, if waste is alleged in the
- 1039 complaint and proved at trial;
- 1040 (d) the amounts due under the contract; and
- 1041 (e) the abatement [~~of the nuisance by eviction as provided in Sections 78B-6-1107~~
- 1042 ~~through 78B-6-1114] by eviction of a private nuisance as described in Section~~
- 1043 78B-6a-303.
- 1044 (3) The court shall enter the judgment against the defendant for the rent and for three times
- 1045 the amount of the damages assessed under Subsections (2)(a) through (2)(e).
- 1046 (4)(a) If the proceeding is for unlawful detainer, the court shall issue execution upon the
- 1047 judgment immediately after the entry of the judgment.
- 1048 (b) In all cases, the judgment may be issued and enforced immediately.
- 1049 (5) In an action under this chapter, the court:
- 1050 (a) shall award costs and reasonable attorney fees to the prevailing party;

1051 (b) may modify a judgment for additional amounts owed if a motion is submitted within  
 1052 180 days on the earlier of the day on which:

1053 (i) the order of restitution is enforced; or

1054 (ii) the defendant vacates the premises; and

1055 (c) may grant a party additional time for a motion under Subsection (5)(b).

1056 (6)(a) If the court issues an order of restitution, the defendant shall provide a current  
 1057 address to the court and the plaintiff within 30 days of the day on which the court  
 1058 issues the order of restitution.

1059 (b) Failure of a defendant to provide an address under Subsection (6)(a) does not require  
 1060 the plaintiff or the court to bear the burden of seeking out the defendant to provide  
 1061 notice for any subsequent proceeding.

1062 Section 28. Section **78B-6-813** is amended to read:

1063 **78B-6-813 . Time for appeal.**

1064 (1) Except as provided in Subsection (2), either party may, within 10 days, appeal from the  
 1065 judgment rendered.

1066 (2) In a [~~nuisance action under Sections 78B-6-1107 through 78B-6-1114~~] private nuisance  
 1067 action described in Section 78B-6a-303, any party may appeal from the judgment  
 1068 rendered within three days.

1069 Section 29. Section **78B-6a-101**, which is renumbered from Section 78B-6-1101 is renumbered  
 1070 and amended to read:

## 1071 **CHAPTER 6a. Civil Actions for Nuisances**

### 1072 **Part 1. General Provisions**

1073 **[~~78B-6-1101~~] 78B-6a-101 . Definitions for chapter.**

1074 [(1)] As used in this [~~part~~] chapter:

1075 (1)(a) "Agricultural operation" means the commercial production of crops, orchards,  
 1076 livestock, poultry, aquaculture, livestock products, or poultry products.

1077 (b) "Agricultural operation" includes:

1078 (i) the real property where the commercial production described in Subsection (1)(a)  
 1079 occurs;

1080 (ii) a facility, a property, or equipment used to facilitate the commercial production  
 1081 described in Subsection (1)(a);

1082 (iii) an agritourism activity, as defined in Section 78B-4-512; or

1083 (iv) an agricultural protection area established under Title 17, Chapter 81,

Agriculture, Industrial, and Critical Infrastructure Materials.

- 1084
- 1085 (2) "Agriculture protection area" means the same as that term is defined in Section
- 1086 17-81-101.
- 1087 [(a)] (3) "Controlled substance" means the same as that term is defined in Section 58-37-2.
- 1088 [(b)] (4) "Critical infrastructure materials operations" means the same as the term "critical
- 1089 infrastructure materials use" is defined in Section 10-20-701.
- 1090 (5) "Drug nuisance" means fumes resulting from the unlawful manufacturing or the
- 1091 unlawful possession or use of a controlled substance that drift into a residential unit a
- 1092 person rents, leases, or owns, from another residential or commercial unit.
- 1093 (6) "Government entity" means:
- 1094 (a) the state, any county, municipality, special district, special service district, or any
- 1095 other political subdivision or administrative unit of the state, including state
- 1096 institutions of education;
- 1097 (b) a federal entity or agency; or
- 1098 (c) a tribal government.
- 1099 (7) "Legal product" means a product for which possession generally, or by the person
- 1100 alleged to be causing the public nuisance, is not specifically prohibited by federal or
- 1101 state law.
- 1102 [(e)] (8) "Manufacturing facility" means a factory, plant, or other facility including its
- 1103 appurtenances, where the form of raw materials, processed materials, commodities, or
- 1104 other physical objects is converted or otherwise changed into other materials,
- 1105 commodities, or physical objects or where such materials, commodities, or physical
- 1106 objects are combined to form a new material, commodity, or physical object.
- 1107 [(d) ~~"Nuisance" means anything that is injurious to health, indecent, offensive to the~~
- 1108 ~~senses, or an obstruction to the free use of property, so as to interfere with the~~
- 1109 ~~comfortable enjoyment of life or property.]~~
- 1110 [(e)] (9)[(i)] "Possession or use" means the joint or individual ownership, control,
- 1111 occupancy, holding, retaining, belonging, maintaining, or the application,
- 1112 inhalation, swallowing, injection, or consumption, as distinguished from
- 1113 distribution, of a controlled substance, and includes individual, joint, or group
- 1114 possession or use of a controlled substance.
- 1115 [(ii) ~~For a person to be a possessor or user of a controlled substance, it is not required~~
- 1116 ~~that the person be shown to have individually possessed, used, or controlled the~~
- 1117 ~~substance, but it is sufficient if it is shown that the person jointly participated with~~

1118 ~~one or more persons in the use, possession, or control of a controlled substance~~  
1119 ~~with knowledge that the activity was occurring, or the controlled substance is~~  
1120 ~~found in a place or under circumstances indicating that the person had the ability~~  
1121 ~~and the intent to exercise dominion and control over it.]~~

1122 (10)(a) "Private nuisance" means a condition arising out of the use of real property that:

1123 (i) is injurious to health or safety, or is indecent or offensive to the senses, of an  
1124 individual on an adjacent or neighboring property; or  
1125 (ii) obstructs the free use of an adjacent or neighboring property so as to interfere  
1126 with the comfortable enjoyment of life or property.

1127 (b) "Private nuisance" includes a condition that is:

1128 (i) gambling as provided in Title 76, Chapter 9, Part 14, Gambling;  
1129 (ii) criminal activity committed in concert with two or more individuals as provided  
1130 in Section 76-3-203.1;  
1131 (iii) criminal activity committed for the benefit of, at the direction of, or in  
1132 association with any criminal street gang as defined in Section 76-9-802;  
1133 (iv) criminal activity committed to gain recognition, acceptance, membership, or  
1134 increased status with a criminal street gang as defined in Section 76-9-802;  
1135 (v) a party house that frequently creates a condition described in Subsection (10)(a);  
1136 (vi) prostitution as provided in Title 76, Chapter 5d, Prostitution;  
1137 (vii) an unsafe building or place;  
1138 (viii) the unlawful discharge of a firearm as provided in state or local law;  
1139 (ix) a drug nuisance; or  
1140 (x) a tobacco nuisance.

1141 (c) "Private nuisance" does not include:

1142 (i) a public nuisance;  
1143 (ii) an action or condition that is lawful; or  
1144 (iii) an action or condition that is authorized, approved, licensed, or mandated by  
1145 statute, ordinance, regulation, permit, license, order, rule, or other similar measure  
1146 issued, adopted, promulgated, or approved by a government entity.

1147 (11)(a) "Public nuisance" means:

1148 (i) a condition arising out of the use of real property that unlawfully interferes with a  
1149 public right by endangering community safety, being indecent to the community,  
1150 or being offensive to the community; or  
1151 (ii) a condition that unlawfully interferes with the public right to free passage or use,

1152 in the customary manner, of a navigable lake, river, bay, stream, canal, or basin or  
1153 a public park, square, street, road, or highway.

1154 (b) "Public nuisance" does not include:

1155 (i) an action or condition that is lawful;

1156 (ii) an action or condition that is authorized, approved, licensed, or mandated by  
1157 statute, ordinance, regulation, permit, license, order, rule, or other similar measure  
1158 issued, adopted, promulgated, or approved by a government entity;

1159 (iii) impairment of the spiritual, cultural, or emotional significance associated with a  
1160 navigable lake, river, bay, stream, canal, or basin or a public park, square, street,  
1161 road, or highway;

1162 (iv) the design, manufacturing, distributing, selling, labeling, or marketing of a legal  
1163 product;

1164 (v) the aggregation of individual injuries or private rights, including a private  
1165 nuisance; or

1166 (vi) the design, manufacturing, distributing, selling, labeling, or marketing of  
1167 firearms, firearm accessories, or ammunition, as defined in Section 53-5d-102, or  
1168 components of firearms, firearm accessories, or ammunition.

1169 (12) "Residential unit" does not include:

1170 (a) a residential rental unit available for temporary rental, such as for a vacation, or  
1171 available for only 30 or fewer days at a time;

1172 (b) a hotel or motel room; or

1173 (c) a unit that is part of a timeshare development, as defined in Section 57-19-2, or  
1174 subject to a timeshare interest as defined in Section 57-19-2.

1175 (13) "Shooting range" means the same as that term is defined in Section 53-5a-701.

1176 (14) "Tobacco or illegal substance nuisance" means tobacco smoke that drifts into a  
1177 residential unit a person rents, leases, or owns, from another residential or commercial  
1178 unit and the smoke:

1179 (a) drifts in more than once in each of two or more consecutive seven-day periods; and

1180 (b) creates a condition described in Subsection (10)(a).

1181 (15)(a) "Unlawfully interferes" means a condition that violates a statute, ordinance,  
1182 regulation, permit, license, order, rule, or other similar measure issued, adopted,  
1183 promulgated, or approved by a government entity.

1184 (b) "Unlawfully interferes" includes any statute, ordinance, regulation, permit, license,  
1185 order, rule, or other similar measure issued, adopted, promulgated, or approved by a

1186 government entity before, on, or after May 6, 2026.

1187 (16) "Unsafe building or place" means a building or place where:

1188 (a) the unlawful sale, manufacture, service, storage, distribution, dispensing, acquisition,  
 1189 or use occurs of any controlled substance, precursor, or analog described in Title 58,  
 1190 Chapter 37, Utah Controlled Substances Act;

1191 (b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title  
 1192 76, Chapter 9, Part 14, Gambling, which creates a condition described in Subsection  
 1193 (10)(a);

1194 (c) criminal activity is committed in concert with two or more individuals as described  
 1195 in Section 76-3-203.1;

1196 (d) criminal activity is committed for the benefit of, at the direction of, or in association  
 1197 with any criminal street gang as defined in Section 76-9-802;

1198 (e) criminal activity is committed to gain recognition, acceptance, membership, or  
 1199 increased status with a criminal street gang as defined in Section 76-9-802;

1200 (f) parties occur frequently that creates a condition described in Subsection (10)(a);

1201 (g) prostitution or promotion of prostitution is regularly carried on by one or more  
 1202 persons as described in Title 76, Chapter 5d, Prostitution;

1203 (h) a violation of an offense under Title 76, Chapter 11, Weapons, occurs on the  
 1204 premises;

1205 (i) the unlawful discharge of a firearm, as provided in state or local law, occurs on the  
 1206 premises; or

1207 (j) human trafficking occurs as described in Title 76, Chapter 5, Part 3, Kidnapping,  
 1208 Trafficking, and Smuggling.

1209 [~~(2) A nuisance may be the subject of an action.~~]

1210 [~~(3) A nuisance may include the following:~~]

1211 [~~(a) drug houses and drug dealing as provided in Section 78B-6-1107;~~]

1212 [~~(b) gambling as provided in Title 76, Chapter 9, Part 14, Gambling;~~]

1213 [~~(c) criminal activity committed in concert with two or more individuals as provided in~~  
 1214 ~~Section 76-3-203.1;~~]

1215 [~~(d) criminal activity committed for the benefit of, at the direction of, or in association~~  
 1216 ~~with any criminal street gang as defined in Section 76-9-802;~~]

1217 [~~(e) criminal activity committed to gain recognition, acceptance, membership, or~~  
 1218 ~~increased status with a criminal street gang as defined in Section 76-9-802;~~]

1219 [~~(f) party houses that frequently create conditions defined in Subsection (1)(d);~~]

- 1220 [(g) prostitution as provided in Title 76, Chapter 5d, Prostitution; or]
- 1221 [(h) the unlawful discharge of a firearm as provided in state or local law.]
- 1222 [(4) A nuisance under this part includes:—]
- 1223 [(a) tobacco smoke that drifts into a residential unit a person rents, leases, or owns, from
- 1224 another residential or commercial unit and the smoke:]
- 1225 [(i) drifts in more than once in each of two or more consecutive seven-day periods;
- 1226 and]
- 1227 [(ii) creates any of the conditions described in Subsection (1)(d); or]
- 1228 [(b) fumes resulting from the unlawful manufacturing or the unlawful possession or use
- 1229 of a controlled substance that drift into a residential unit a person rents, leases, or
- 1230 owns, from another residential or commercial unit.]
- 1231 [(5) Subsection (4)(a) does not apply to:]
- 1232 [(a) a residential rental unit available for temporary rental, such as for a vacation, or
- 1233 available for only 30 or fewer days at a time; or]
- 1234 [(b) a hotel or motel room.]
- 1235 [(6) Subsection (4)(a) does not apply to a unit that is part of a timeshare development, as
- 1236 defined in Section 57-19-2, or subject to a timeshare interest as defined in Section
- 1237 57-19-2.]
- 1238 [(7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter
- 1239 44, Agricultural Operations Nuisances Act.]
- 1240 Section 30. Section **78B-6a-102** is enacted to read:
- 1241 **78B-6a-102 . Abrogation of common law nuisance.**
- 1242 This chapter abrogates any common law civil right of action for a public nuisance or a
- 1243 private nuisance in this state.
- 1244 Section 31. Section **78B-6a-103**, which is renumbered from Section 78B-6-1114 is renumbered
- 1245 and amended to read:
- 1246 **[78B-6-1114] 78B-6a-103 . Award of costs and attorney fees.**
- 1247 (1) The court may award costs, including the costs of investigation and discovery, and
- 1248 reasonable attorney fees, which are not compensated for [~~pursuant to some other~~] in
- 1249 accordance with another provision of law, to the prevailing party in any case in which a
- 1250 party brings an action to abate a nuisance under this [~~part~~] chapter.
- 1251 (2) [~~The~~] If a defendant is a landlord, owner, or designated agency, the court may award
- 1252 costs, including the costs of investigation and discovery, and reasonable attorney fees
- 1253 against [~~a defendant landlord, owner, or designated agent~~] the defendant only when the

1254 court finds that the defendant [~~landlord, owner, or designated agent~~] had actual notice of  
 1255 the nuisance action and willfully failed to take reasonable action within a reasonable  
 1256 time to abate the nuisance.

1257 Section 32. Section **78B-6a-104**, which is renumbered from Section 78B-6-1102.5 is renumbered  
 1258 and amended to read:

1259 **[78B-6-1102.5] 78B-6a-104 . Violation of order enjoining a public or private**  
 1260 **nuisance -- Civil penalty.**

1261 A person who knowingly violates any judgment or order abating or enjoining a [~~nuisance,~~  
 1262 ~~as that term is defined in Section 78B-6-1101~~] public nuisance or private nuisance:

- 1263 (1) is guilty of a class B misdemeanor; and  
 1264 (2) is subject to a civil penalty of \$50 per day for each day that the nuisance continues in  
 1265 violation of the order.

1266 Section 33. Section **78B-6a-201** is enacted to read:

1267 **Part 2. Public Nuisance**

1268 **78B-6a-201 . Definitions for part.**

1269 As used in this part:

- 1270 (1) "Private party" means a person that is not a government entity.  
 1271 (2)(a) "Special injury" means an injury that is different in kind, not just in degree, from  
 1272 an injury sustained by the general public exercising the same public right.  
 1273 (b) "Special injury" does not include:  
 1274 (i) an injury that is based upon impairment of the spiritual, cultural, or emotional  
 1275 significance associated with a navigable lake, river, bay, stream, canal, basin or a  
 1276 public park, square, street, road, or highway; or  
 1277 (ii) a financial expenditure made by a person in responding, including seeking an  
 1278 injunction in response, to a public nuisance.

1279 Section 34. Section **78B-6a-202** is enacted to read:

1280 **78B-6a-202 . Government right of action for a public nuisance.**

- 1281 (1) Except as otherwise provided by this section or Part 4, Defenses to Nuisances Actions, a  
 1282 government entity has a right of action against a person for a public nuisance if:  
 1283 (a) the person:  
 1284 (i) engages in an activity that directly causes a public nuisance and the public  
 1285 nuisance is a reasonably foreseeable result of the person's activity;  
 1286 (ii) controls or instructs at least one other person to engage in an activity that directly  
 1287 causes the public nuisance and the public nuisance is a reasonably foreseeable

- 1288 result of the other person's activity; or
- 1289 (iii) is the successive owner of property and neglects to abate a continuing public
- 1290 nuisance upon, or in the use of the property, that was created by a former owner;
- 1291 and
- 1292 (b)(i) the public nuisance would not exist if not for the person's conduct under
- 1293 Subsection (1)(a); or
- 1294 (ii) the government entity's expenditures to abate or address the public nuisance
- 1295 would decrease by at least 25%.
- 1296 (2)(a) A government entity that is a political subdivision of the state may only bring a
- 1297 public nuisance action described in Subsection (1) if the alleged public nuisance is
- 1298 entirely within the jurisdiction of that government entity.
- 1299 (b) If an alleged public nuisance is not entirely within the jurisdiction of a political
- 1300 subdivision of the state, only the attorney general may bring an action described in
- 1301 Subsection (1) on behalf of the state.
- 1302 (3) A government entity that brings a public nuisance action under Subsection (1) shall
- 1303 plead each element of the public nuisance action:
- 1304 (a) by the verified complaint, counterclaim, or third party complaint; and
- 1305 (b) with particularity under the same standard required by Utah Rules of Civil
- 1306 Procedure, Rule 9.
- 1307 (4) A government entity does not have a right of action under Subsection (1) solely because
- 1308 the government entity has made past, current, or future expenditures in responding,
- 1309 including seeking an injunction in response, to a public nuisance.
- 1310 (5) If a government entity prevails in an action for a public nuisance, the court may only:
- 1311 (a) grant injunctive relief to enjoin the condition that is proximately causing the public
- 1312 nuisance; and
- 1313 (b) award monetary or nonmonetary resources to abate the public nuisance if the court
- 1314 determines the resources are reasonably necessary, by clear and convincing evidence,
- 1315 to abate the public nuisance based upon relevant and reliable cost factors.
- 1316 (6) A government entity may only spend resources awarded under Subsection (5)(b) to
- 1317 abate the public nuisance.
- 1318 (7) If an action is brought under this section, the court may not award:
- 1319 (a) resources for abating a potential future public nuisance; or
- 1320 (b) damages of any kind, including economic, noneconomic, or exemplary damages.
- 1321 (8) There is no statute of limitations for an action under this section if the public nuisance

1322 amounts to an actual ongoing obstruction of a public right.  
1323 (9) This section does not limit the authority of a government entity to order a person to  
1324 vacate the right of way of a navigable lake, river, bay, stream, canal, or basin or a public  
1325 park, square, street, road, or highway.

1326 (10) A private party may not bring an action for a public nuisance under this section.

1327 Section 35. Section **78B-6a-203** is enacted to read:

1328 **78B-6a-203 . Private right of action for a public nuisance.**

1329 (1) Except as otherwise provided by this section and Part 4, Defenses to Nuisances Actions,  
1330 a private party has a right of action for a public nuisance against a person if:

1331 (a) the person:

1332 (i) engages in an activity that directly causes the public nuisance and the public  
1333 nuisance is a reasonably foreseeable result of the person's activity;

1334 (ii) controls or instructs at least one other person to engage in an activity that directly  
1335 causes the public nuisance and the public nuisance is a reasonably foreseeable  
1336 result of the other person's activity; or

1337 (iii) is the successive owner of property and neglects to abate a continuing public  
1338 nuisance upon, or in the use of the property, that was created by a former owner;

1339 (b) not for the person's conduct under Subsection (1)(a):

1340 (i) the public nuisance would not exist; or

1341 (ii) the private party's expenditures to abate or address the public nuisance would  
1342 decrease by at least 25%; and

1343 (c) the private party can establish, by clear and convincing evidence, that the private  
1344 party has suffered special injury.

1345 (2) A private party that brings a public nuisance action under Subsection (1) shall plead  
1346 each element of the public nuisance action:

1347 (a) by verified complaint, counterclaim, or third party complaint; and

1348 (b) with particularity under the same standard required by Utah Rules of Civil  
1349 Procedure, Rule 9.

1350 (3) If a private party brings an action for a public nuisance, the court may only award  
1351 compensatory damages for the special injury that may not be otherwise reimbursed, or  
1352 have been reimbursed, by a government entity.

1353 (4) The abatement of a public nuisance by a government entity as described in Section  
1354 78B-6a-204 does not preclude a right of action under this section.

1355 (5) A class action may not be brought under this section for special injuries arising out of a

1356 public nuisance.

1357 Section 36. Section **78B-6a-204** is enacted to read:

1358 **78B-6a-204 . Abatement of a public nuisance.**

1359 (1) A government entity, or an officer of a government entity who is authorized by law,  
1360 may abate a public nuisance.

1361 (2) Nothing in this section alters the remedies available to a government entity or a private  
1362 party in a right of action under Sections 78B-6a-202 and 78B-6a-203.

1363 Section 37. Section **78B-6a-301** is enacted to read:

1364 **Part 3. Private Nuisance**

1365 **78B-6a-301 . Definitions for part.**

1366 Reserved.

1367 Section 38. Section **78B-6a-302**, which is renumbered from Section 78B-6-1102 is renumbered  
1368 and amended to read:

1369 **[78B-6-1102] 78B-6a-302 . Right of action for private nuisance.**

1370 [~~(1) An action for nuisance may be brought before a court with jurisdiction by any person~~  
1371 ~~whose property is injuriously affected, or whose personal enjoyment is lessened by the~~  
1372 ~~nuisance.]~~

1373 (1) Except as otherwise provided by this part or Part 4, Defenses for Nuisance Actions, a  
1374 person has a right of action for a private nuisance if:

1375 (a) the person owns or possesses a legal interest in the real property that is the subject of  
1376 the action; and

1377 (b) the person's real property is injuriously affected by the private nuisance or the  
1378 person's personal enjoyment is lessened by the private nuisance.

1379 (2) [~~Upon judgment, the court may, in addition to any other relief the court considers just~~  
1380 ~~and proper] If the person prevails in an action described in Subsection (1), the court may,  
1381 in addition to any other relief the court considers just and proper:~~

1382 (a) award damages;

1383 (b) order the nuisance to be enjoined or abated, [~~which may include~~] including:

1384 (i) requiring a defendant to make repairs to the nuisance property or property that is  
1385 injuriously affected by the nuisance;

1386 (ii) requiring a defendant to:

1387 (A) install and maintain secure locks on the nuisance property's doors or windows;

1388 (B) provide security personnel or video surveillance monitoring of the nuisance  
1389 property; or

- 1390 (C) install and maintain lighting in and around common areas; or  
 1391 (iii) abatement by eviction as provided in this part;  
 1392 (c) grant declaratory relief as described in Chapter 4, Part 4, Declaratory Judgments; or  
 1393 (d) award costs and reasonable attorney fees to the prevailing party as described in  
 1394 Section [~~76B-6-1114~~] 78B-6a-103.

1395 (3) A court that issues a judgment or order under this [~~part~~] section retains jurisdiction to  
 1396 enforce the judgment or order.

1397 Section 39. Section **78B-6a-303** is enacted to read:

1398 **78B-6a-303 . Abatement by eviction of private nuisance.**

1399 (1)(a) The county attorney, or the county, the city attorney of any incorporated city in  
 1400 the county, any citizen or citizens of the state residing in the county, or any person or  
 1401 business doing business in the county, has a right of action for abatement by eviction  
 1402 if there is reason to believe that an unsafe building or place is kept, maintained, or  
 1403 exists in the city or county.

1404 (b) The court may designate a spokesperson from a group of citizens who would  
 1405 otherwise have the right to maintain an action in their individual names against the  
 1406 defendant under Subsection (1)(a).

1407 (2) A court shall issue an order of abatement by eviction if the plaintiff shows, by a  
 1408 preponderance of the evidence, that:

1409 (a) the plaintiff will suffer irreparable harm unless the order of abatement by eviction is  
 1410 issued;

1411 (b) the threatened injury to the plaintiff outweighs any damage the proposed order of  
 1412 abatement by eviction may cause the party to be evicted;

1413 (c) the order of abatement by eviction would not be adverse to the public interest; and

1414 (d) there is a substantial likelihood that:

1415 (i) the plaintiff will prevail on the merits of the underlying claim; or

1416 (ii) the case presents serious issues on the merits that should be the subject of further  
 1417 litigation.

1418 (3)(a) At the time of filing an action for abatement by eviction under Subsection (1), the  
 1419 court may issue an order, upon a showing of good cause:

1420 (i) to protect the plaintiff; or

1421 (ii) to protect a witness who is not a peace officer if proof of the existence of the  
 1422 unsafe building or place depends in whole or in part upon the affidavit of the  
 1423 witness.

- 1424           (b) The order under Subsection (3)(a) may include nondisclosure of the name, address,  
1425           or any other information that may identify the individual protected by the order.
- 1426 (4)(a) A landlord, owner, or designated agent is a necessary defendant in an action for an  
1427           unsafe building or place for entry of an order to abate the unsafe building or place by  
1428           eviction where the acts complained of are those of a third party upon the premises of  
1429           the landlord, owner, or designated agent.
- 1430           (b) At the court's hearing on the action to abate the unsafe building or place by eviction,  
1431           the court shall notify the necessary parties, including the applicant, the tenant, and the  
1432           landlord, owner, or designated agent, if:
- 1433           (i) the court finds that an unsafe building or place is a private nuisance; and  
1434           (ii) as a result, the court is issuing an order to evict the tenant subject to compliance  
1435           with the security requirement in Subsection (6).
- 1436 (5) In all cases, including default judgments, the order of abatement by eviction may be  
1437           issued and enforced immediately.
- 1438 (6)(a) The court shall condition issuance of an order of abatement by eviction under this  
1439           section on the giving of security by the plaintiff, in such sum and form as the court  
1440           determines proper, unless:
- 1441           (i) the court determines that none of the parties will incur or suffer costs, attorney  
1442           fees, or damages as the result of any wrongful order of abatement by eviction;
- 1443           (ii) the court determines that there exists some substantial reason for dispensing with  
1444           the requirement of security; or
- 1445           (iii) the plaintiff has proved, by a preponderance of the evidence, the existence of an  
1446           unsafe building or place.
- 1447           (b) Security described in Subsection (6)(a) may not be required:
- 1448           (i) of the United States, the state, or an officer, agency, or subdivision of the United  
1449           States or the state; or
- 1450           (ii) when prohibited by law.
- 1451           (c) The amount of security may not limit the award of:
- 1452           (i) reasonable attorney fees or costs incurred in connection with the order of  
1453           abatement by eviction; or
- 1454           (ii) damages that may be awarded to a party who is found to have been wrongfully  
1455           evicted.
- 1456           (d)(i) A surety upon a bond or undertaking under this Subsection (6) submits to the  
1457           jurisdiction of the court and irrevocably appoints the clerk of the court as agent

- 1458 upon whom any papers affecting the surety's liability on the bond or undertaking  
 1459 may be served.
- 1460 (ii) The surety's liability may be enforced on motion without the necessity of an  
 1461 independent action.
- 1462 (iii) The motion, and any notice of the motion as the court prescribes, may be served  
 1463 on the clerk of the court who shall immediately provide a copy to the plaintiff or  
 1464 other person giving the security by the means established at the time of the filing  
 1465 of the action.
- 1466 (e) Upon request, the plaintiff shall be granted a hearing to be held no later than three  
 1467 days from the date the defendant is served with notice of the applicant's giving of  
 1468 security, as described in Subsection (6)(a).

1469 Section 40. Section **78B-6a-304**, which is renumbered from Section 78B-6-1113 is renumbered  
 1470 and amended to read:

1471 **[78B-6-1113] 78B-6a-304 . Evidence of private nuisance -- Requirements for**  
 1472 **controlled substance nuisance.**

- 1473 (1) In an action [~~for nuisance or abatement by eviction~~] described in Section  
 1474 78B-6a-302 or 78B-6a-303, all evidence authorized by law, including evidence of  
 1475 reputation in a community, is admissible to prove the existence of a private nuisance or  
 1476 the elements required for an order of abatement by eviction by a preponderance of the  
 1477 evidence.
- 1478 (2) If the private nuisance is for fumes resulting from the unlawful manufacturing or the  
 1479 unlawful possession or use of a controlled substance that drift into a residential unit a  
 1480 person rents, leases, or owns, from another residential or commercial unit:
- 1481 (a) the plaintiff is not required to show that a person individually possessed, used, or  
 1482 controlled the substance; and
- 1483 (b) it is sufficient if the plaintiff shows that the person jointly participated with one or  
 1484 more persons in the use, possession, or control of a controlled substance with  
 1485 knowledge that the activity was occurring, or the controlled substance is found in a  
 1486 place or under circumstances indicating that the person had the ability and the intent  
 1487 to exercise dominion and control over the controlled substance.

1488 Section 41. Section **78B-6a-401** is enacted to read:

1489 **Part 4. Defenses to Nuisance Actions**

1490 **78B-6a-401 . Definitions for part.**

1491 As used in this part, "fundamental change" does not include:

- 1492 (1) a change in ownership or size;  
 1493 (2) an interruption of farming for a period of no more than three years;  
 1494 (3) participation in a government-sponsored agricultural program;  
 1495 (4) employment of new technology; or  
 1496 (5) a change in the type of agricultural product produced.

1497 Section 42. Section **78B-6a-402**, which is renumbered from Section 78B-6-1103 is renumbered  
 1498 and amended to read:

1499 **[78B-6-1103] 78B-6a-402 . Defense in private nuisance action for manufacturing**  
 1500 **facility in operation over three years.**

1501 (1)(a) [~~Notwithstanding Sections 76-9-1301 and 78B-6-1101, a manufacturing facility~~  
 1502 ~~may not be considered a nuisance because of] A person or government entity does not  
 1503 have a right of action for a private nuisance under this chapter for any changed  
 1504 circumstance in land uses near [the] a manufacturing facility if:~~

- 1505 (i) the manufacturing facility has been in operation for more than three years; and  
 1506 (ii) the manufacturing facility was not a private nuisance at the time [it] the  
 1507 manufacturing facility began operation.

1508 (b) The manufacturing facility may not increase the condition asserted to be a private  
 1509 nuisance.

1510 (c) The provisions of this Subsection (1) do not apply if a private nuisance results from  
 1511 the negligent or improper operation of a manufacturing facility.

1512 (2) Nothing in this section affects the right of a person in an action other than an action for  
 1513 a private or public nuisance to recover damages for injuries or damage sustained as a  
 1514 result of the pollution or change in the conditions of the waters of a stream or overflow  
 1515 of the lands of any person.

1516 (3)(a) Any and all ordinances [~~now or in the future~~] adopted by any county or municipal  
 1517 corporation in which a manufacturing facility is located [~~and which makes its~~] that  
 1518 makes the manufacturing facility's operation a private nuisance or providing for an  
 1519 abatement as a private nuisance in the circumstances set forth in this section are null  
 1520 and void.

1521 (b) The provisions of this Subsection (3) may not apply whenever a private nuisance  
 1522 results from the negligent or improper operation of a manufacturing facility.

1523 (4) This section does not apply to an action under Part 2, Public Nuisance.

1524 Section 43. Section **78B-6a-403**, which is renumbered from Section 78B-6-1115 is renumbered  
 1525 and amended to read:

1526 **[78B-6-1115] 78B-6a-403 . Defense in private nuisance action for critical**  
 1527 **infrastructure materials operations.**

1528 (1) [Activities] A person or government entity does not have a right of action for a private  
 1529 nuisance under this chapter for an activity conducted in the normal and ordinary course  
 1530 of a critical infrastructure materials [operations] operation or conducted in accordance  
 1531 with sound practices [are] is presumed to be reasonable[-and not constitute a nuisance].

1532 (2) [Critical] A critical infrastructure materials [operations] operation undertaken in  
 1533 conformity with federal, state, and local laws and regulations, including zoning  
 1534 ordinances, [are] is presumed to be operating within sound critical infrastructure  
 1535 materials practices.

1536 (3) This section does not apply to an action under Part 2, Public Nuisance.

1537 Section 44. Section **78B-6a-404**, which is renumbered from Section 4-44-201 is renumbered  
 1538 and amended to read:

1539 **[4-44-201] 78B-6a-404 . Defense in nuisance action for agricultural operations.**

1540 (1) [It is a defense in a civil action for nuisance against an agricultural operation that]

1541 (a) A person or government entity does not have a right of action under this chapter for a  
 1542 private nuisance that is an agricultural operation if:

1543 [(a)] (i) the plaintiff is not a legal possessor of the real property affected by the  
 1544 conditions alleged to be the public nuisance or private nuisance;

1545 [(b)] (ii) the real property affected by the conditions alleged to be the public nuisance  
 1546 or private nuisance is located outside one-half mile of the source of the activity or  
 1547 structure alleged to be the public nuisance or private nuisance; or

1548 [(c)] (iii) the action is filed more than one year after:

1549 [(i)] (A) the establishment of the agricultural operation; or

1550 [(ii)] (B) the agricultural operation undergoes a fundamental change.

1551 [(2)] (b) [This section] Subsection (1)(a) may not be construed to invalidate any contract  
 1552 made before May 14, 2019.

1553 (2)(a) A person or government entity does not have a right of action under this chapter  
 1554 for a private nuisance that is an agricultural operation if the agricultural operation is  
 1555 conducted in the normal and ordinary course of an agricultural operation or  
 1556 conducted in accordance with sound agricultural practices.

1557 (b) An agricultural operation undertaken in conformity with federal, state, and local laws  
 1558 and regulations, including zoning ordinances, is presumed to be operating within  
 1559 sound agricultural practices.

1560 (3) A person or government entity has no right of action for a public nuisance or private  
 1561 nuisance if the action involves an agricultural activity and the agricultural activity is:  
 1562 (a) conducted within an agriculture protection area; and  
 1563 (b) not in violation of any federal, state, or local law or regulation relating to the alleged  
 1564 nuisance or was conducted according to sound agricultural practices.

1565 [(3)] (4) In a public nuisance or private nuisance action [~~against~~] for an agricultural  
 1566 operation, the court shall award costs and expenses, including reasonable attorney fees,  
 1567 to:

1568 (a) the [~~agricultural operation~~] defendant when the court finds the agricultural operation  
 1569 is not a [~~nuisance and the~~] public nuisance or private nuisance and the action is  
 1570 frivolous or malicious; or

1571 (b) the plaintiff when the court finds the agricultural operation is a public nuisance or  
 1572 private nuisance and the [~~agricultural operation~~] defendant asserts an affirmative  
 1573 defense in the [~~nuisance~~] action that is frivolous and malicious.

1574 [(4) A person who knowingly violates a judgment or order abating or otherwise enjoining a  
 1575 nuisance is guilty of a class B misdemeanor.]

1576 Section 45. Section **78B-6a-405**, which is renumbered from Section 78B-6-1106 is renumbered  
 1577 and amended to read:

1578 **[78B-6-1106] 78B-6a-405 . Limitations on tobacco and drug nuisance actions.**

1579 (1) [~~There is no cause of action for a nuisance under Subsection 78B-6-1101(4)(a)] There is  
 1580 no right of action under this chapter for a tobacco nuisance if the rental, lease, restrictive  
 1581 covenant, or purchase agreement for the unit states in writing that:~~

1582 (a) tobacco smoking is allowed in other units, either residential or commercial, and that  
 1583 tobacco smoke from those units may drift into the unit that is subject to the  
 1584 agreement; and

1585 (b) by signing the agreement the renter, lessee, or buyer acknowledges [~~he has~~] hey have  
 1586 been informed that tobacco smoke may drift into the unit [~~he is~~] they are renting,  
 1587 leasing, or purchasing, and [~~he waives~~] they waive any right to a cause of action for a [~~]~~  
 1588 nuisance under Subsection 78B-6-1101(4)] tobacco nuisance.

1589 (2) A cause of action for [~~a nuisance under Subsection 78B-6-1101(4)(a)] a tobacco nuisance  
 1590 may be brought against:~~

1591 (a) the individual generating the tobacco smoke;

1592 (b) the renter or lessee who permits or fails to control the generation of tobacco smoke,  
 1593 in violation of the terms of the rental or lease agreement, on the premises the renter or

- 1594 lessee rents or leases; or
- 1595 (c) the landlord, but only if:
- 1596 (i) the terms of the renter's or lessee's contract provide the unit will not be subject to
- 1597 the nuisance of drifting tobacco smoke;
- 1598 (ii) the complaining renter or lessee has provided to the landlord a statement in
- 1599 writing indicating that tobacco smoke is creating a nuisance in the renter's or
- 1600 lessee's unit; and
- 1601 (iii) the landlord knowingly allows the continuation of a [~~nuisance under Subsection~~
- 1602 ~~78B-6-1101(4)~~] tobacco nuisance after receipt of written notice under Subsection
- 1603 (2)(c)(ii), and in violation of the terms of the rental or lease agreement under
- 1604 Subsection [~~(2)(c)(i)~~] (2)(b).
- 1605 (3) A cause of action for [~~nuisance under Subsection 78B-6-1101(4)(b)~~] a drug nuisance
- 1606 may be brought against:
- 1607 (a) an individual who generates fumes by the unlawful manufacturing or the unlawful
- 1608 possession or use of a controlled substance;
- 1609 (b) a renter or lessee who permits or fails to control the generation of fumes from the
- 1610 unlawful manufacturing or the unlawful possession or use of a controlled substance
- 1611 on the premises the renter or lessee rents or leases; or
- 1612 (c) a landlord, but only if:
- 1613 (i) the complaining renter or lessee has provided to the landlord a statement in
- 1614 writing indicating that fumes from the unlawful manufacturing or the unlawful
- 1615 possession or use of a controlled substance are creating a nuisance in the renter's
- 1616 or lessee's unit; and
- 1617 (ii) the landlord knowingly allows the continuation of a [~~nuisance under Subsection~~
- 1618 ~~78B-6-1101(4)(b)~~] drug nuisance after receipt of written notice under Subsection
- 1619 (3)(c)(i).

1620 (4) It is a defense to a drug nuisance if the defendant can prove that the defendant is

1621 lawfully entitled to the possession or use of a controlled substance.

1622 Section 46. Section **78B-6a-407** is enacted to read:

1623 **78B-6a-407 . Defense in nuisance action for shooting range.**

- 1624 (1) A person or government entity does not have a right of action under this chapter against
- 1625 a person who operates or uses a shooting range in this state for noise or noise pollution
- 1626 resulting from the operation or use of the shooting range if the shooting range:
- 1627 (a)(i) was established, constructed, or operated before the implementation of any

- 1628 noise ordinances, rules, or regulations; and  
 1629 (ii) does not substantially and adversely affect public health or safety; or  
 1630 (b)(i) is in compliance with any noise control laws, ordinances, rules, or regulations  
 1631 that applied to the shooting range and the shooting range's operation at the time of  
 1632 establishment, construction, or initial operation of the shooting range; and  
 1633 (ii) does not substantially and adversely affect public health or safety.  
 1634 (2) For purposes of this section, noise generated by a shooting range that is operated in  
 1635 accordance with nationally recognized standards and operating practices does not  
 1636 constitute a public nuisance or a private nuisance.

1637 Section 47. Section **78B-6a-408** is enacted to read:

1638 **78B-6a-408 . Defense for migratory bird production area.**

1639 A person or government entity does not have a right of action under this chapter if the  
 1640 public nuisance or private nuisance is:

- 1641 (1) normally associated with a migratory bird production area;  
 1642 (2) conducted within a migratory bird production area; and  
 1643 (3) not in violation of federal or state law.

1644 Section 48. **Repealer.**

1645 This bill repeals:

1646 Section **4-44-101, Title.**

1647 Section **4-44-102, Definitions.**

1648 Section **4-44-202, Application of other statutes -- Ordinances.**

1649 Section **47-1-1, Declared a nuisance -- Abatement.**

1650 Section **47-1-2, Injunction -- Notice to owner of premises.**

1651 Section **47-1-3, Evidence -- Dismissal of action -- Costs.**

1652 Section **47-1-4, Violation of injunction -- Proceedings for contempt.**

1653 Section **47-1-5, Order of abatement -- Execution -- Sale of personal property --**  
 1654 **Padlocking.**

1655 Section **47-1-6, Proceeds of sale -- Disposition.**

1656 Section **47-1-7, Bond to secure abatement -- Procedure.**

1657 Section **47-1-8, Permanent injunction -- Fine.**

1658 Section **47-2-1, "Abandoned horse" defined.**

1659 Section **47-2-2, "Open range" defined.**

1660 Section **47-3-101, Title.**

1661 Section **76-9-1306, Action for abatement of public nuisance.**

- 1662           Section **76-9-1307, Relief granted for a public nuisance that offends public decency.**
- 1663           Section **78B-6-1107, Nuisance -- Drug houses and drug dealing -- Gambling -- Group**
- 1664 **criminal activity -- Party house -- Prostitution -- Weapons -- Discharge of a firearm -- Defense.**
- 1665           Section **78B-6-1108, Nuisance -- Abatement by eviction.**
- 1666           Section **78B-6-1109, Abatement by eviction order -- Grounds.**
- 1667           Section **78B-6-1110, Prior acts or threats of violence -- Protection of applicant or witness.**
- 1668           Section **78B-6-1111, Landlord, owner, or designated agent -- Necessary party --**
- 1669 **Automatic eviction.**
- 1670           Section **78B-6-1112, Security requirement -- Amount not a limitation -- Jurisdiction over**
- 1671 **surety.**
- 1672           Section 49. **Effective Date.**
- 1673           This bill takes effect on May 6, 2026.