

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

2
 3 **LONG TITLE**

4 **General Description:**

5 This bill creates an affirmative defense.

6 **Highlighted Provisions:**

7 This bill:

8 ▶ creates an affirmative defense in a civil action for conduct, an omission, or a condition
 9 authorized or required by a governmental entity;

10 ▶ provides that the affirmative defense does not apply if a person fails to comply with, or
 11 exceeds the scope of, a governmental entity's authorization or requirement, or causes
 12 harm through a defective product;

13 ▶ clarifies when conduct, an omission, or a condition is considered to have occurred for
 14 purposes of the affirmative defense;

15 ▶ specifies that the affirmative defense applies regardless of the theory of liability; and

16 ▶ abrogates the common law to the extent the common law is inconsistent with the
 17 affirmative defense.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 ENACTS:

24 **78B-4-901**, Utah Code Annotated 1953

25 **78B-4-902**, Utah Code Annotated 1953

26
 27 *Be it enacted by the Legislature of the state of Utah:*

28 Section 1. Section **78B-4-901** is enacted to read:

29 **Part 9. Limitations on Liability Based on Governmental Authorization**

30 **78B-4-901 . Definitions.**

31 As used in this part, "governmental entity" means the same as that term is defined in
32 Section 63G-7-102.

33 Section 2. Section **78B-4-902** is enacted to read:

34 **78B-4-902 . Affirmative defense -- Reliance on governmental authorization --**
35 **Civil actions.**

36 (1) Except as provided in Subsection (2) or (3)(c), a person has an affirmative defense in a
37 civil action if:

38 (a) the conduct, omission, or condition alleged to have caused the plaintiff harm was
39 authorized or required by:

40 (i) statute;

41 (ii) ordinance;

42 (iii) administrative rule;

43 (iv) a permit, license, or order; or

44 (v) another written instrument that has the force of law and is issued by a
45 governmental entity; and

46 (b) the authorization or requirement described in Subsection (1)(a) was in effect at the
47 time the conduct, omission, or condition occurred, which is:

48 (i) for conduct, when the conduct is undertaken;

49 (ii) for an omission, when the omission occurs; and

50 (iii) for a condition, when the condition initially arises.

51 (2) The affirmative defense described in Subsection (1) does not apply if the plaintiff
52 proves that:

53 (a) the person materially failed to comply with the terms or conditions of the
54 authorization or requirement described in Subsection (1); or

55 (b) the person's conduct exceeded the scope of the authorization or requirement
56 described in Subsection (1).

57 (3) This section does not:

58 (a) create a cause of action;

59 (b) affect the availability of another defense in a civil action; or

60 (c) apply to any action for damages for personal injury, death, or property damages
61 allegedly caused by a defect or defective condition in a product.

62 (4) The affirmative defense described in this section applies in a civil action regardless of
63 whether the civil action is based on negligence, strict liability, nuisance, or another
64 theory of liability.

65 (5) This section abrogates the common law to the extent the common law is inconsistent
66 with this section.

67 (6) If any provision of this section is held invalid, the invalidity does not affect any other
68 provision of this section that can be given effect without the invalid provision.

69 Section 3. **Effective Date.**

70 This bill takes effect on May 6, 2026.