

Representative Ben C. Ferry proposes the following substitute bill:

**RECREATIONAL USE OF PUBLIC WATERS ON PRIVATE
PROPERTY**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ben C. Ferry

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions relating to the recreational use of public waters that flow over privately owned beds.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies a provision relating to fencing;
- ▶ establishes a criminal penalty for:
 - cutting a fence; and
 - violating a provision in a part;
- ▶ authorizes a person to engage in certain recreational activities in specified public waters;
- ▶ authorizes a person in certain circumstances to touch certain private beds beneath specified public waters;
- ▶ specifies the public waters in which a person may engage in a recreational activity;
- ▶ creates a Recreational Access Board;
- ▶ establishes membership and duties for the Recreational Access Board; and



26 ▶ establishes procedures for applications to the Recreational Access Board.

27 **Monies Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 This bill coordinates with H.B. 153, Trespass Law Amendments, by modifying
31 language.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **4-26-4**, as enacted by Laws of Utah 1979, Chapter 2

35 **63-34-3**, as last amended by Laws of Utah 1996, Chapter 159

36 **63I-1-273**, as last amended by Laws of Utah 2008, Chapters 148, 311 and renumbered
37 and amended by Laws of Utah 2008, Chapter 382

38 ENACTS:

39 **73-6a-101**, Utah Code Annotated 1953

40 **73-6a-102**, Utah Code Annotated 1953

41 **73-6a-201**, Utah Code Annotated 1953

42 **73-6a-202**, Utah Code Annotated 1953

43 **73-6a-203**, Utah Code Annotated 1953

44 **73-6a-301**, Utah Code Annotated 1953

45 **73-6a-302**, Utah Code Annotated 1953

46 **73-6a-303**, Utah Code Annotated 1953

47 **73-6a-304**, Utah Code Annotated 1953

48 **73-6a-401**, Utah Code Annotated 1953

49 **73-6a-402**, Utah Code Annotated 1953



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

52 Section 1. Section **4-26-4** is amended to read:

53 **4-26-4. Failure to close entrance to enclosure -- Class "C" misdemeanor --**

54 **Damages.**

55 ~~[Any person who willfully]~~

56 (1) A person is guilty of a class C misdemeanor if the person willfully:

- 57 (a) throws down a fence; or
- 58 (b) (i) opens bars or gates into any enclosure [~~other than~~] that is not:
- 59 (A) the person's own enclosure; or [~~into any~~]
- 60 (B) an enclosure jointly owned or occupied by [~~such~~] ~~the~~ person and others[-]; and
- 61 (ii) leaves [it] the enclosure open [~~is guilty of a class "C" misdemeanor, and is~~].
- 62 (2) A person is guilty of a class B misdemeanor if the person willfully cuts a fence.
- 63 (3) A person who performs an act described in this section is also liable in damage for
- 64 any injury sustained by any person as a result of [~~such an~~] the act.

65 Section 2. Section **63-34-3** is amended to read:

66 **63-34-3. Department of Natural Resources created -- Boards, councils, and**
67 **divisions within department.**

- 68 (1) There is created within state government the Department of Natural Resources.
- 69 (2) The Department of Natural Resources comprises the following boards, councils,
- 70 and divisions:

- 71 (a) Board of Water Resources;
- 72 (b) Forestry, Fire and State Lands Advisory Council;
- 73 (c) Board of Oil, Gas and Mining;
- 74 (d) Board of Parks and Recreation;
- 75 (e) Wildlife Board;
- 76 (f) Riverway Enhancement Advisory Council;
- 77 (g) Board of the Utah Geological Survey;
- 78 (h) Water Development Coordinating Council;
- 79 (i) Division of Water Rights;
- 80 (j) Division of Water Resources;
- 81 (k) Division of Forestry, Fire and State Lands;
- 82 (l) Division of Oil, Gas and Mining;
- 83 (m) Division of Parks and Recreation;
- 84 (n) Division of Wildlife Resources; [~~and~~]
- 85 (o) Utah Geological Survey[-]; and
- 86

(p) Recreational Access Board, created in Section 73-6a-301.

87 Section 3. Section **63I-1-273** is amended to read:

88 **63I-1-273. Repeal dates, Title 73.**

89 (1) Title 73, Chapter 27, State Water Development Commission, is repealed December
90 31, 2018.

91 (2) The instream flow water right for trout habitat established in Subsection 73-3-30(3)
92 is repealed December 31, 2018.

93 (3) Title 73, Chapter 6a, Part 3, Recreational Access Board, is repealed July 1, 2015.

94 Section 4. Section **73-6a-101** is enacted to read:

95 **CHAPTER 6a. RECREATIONAL USE OF PUBLIC WATER**

96 **Part 1. General Provisions**

97 **73-6a-101. Title.**

98 This chapter is known as "Recreational Use of Public Water."

99 Section 5. Section **73-6a-102** is enacted to read:

100 **73-6a-102. Definitions.**

101 As used in this chapter:

102 (1) "Bed" means an area that is:

103 (a) adjacent within five feet of a water body; and

104 (b) beneath the ordinary high water mark.

105 (2) "Board" means the Recreational Access Board created in Section 73-6a-301.

105a ~~H~~→ (3) **"Indian land" means land that is:**

105b **(a) held in trust by the United States for an Indian tribe or a member of an Indian**

105c **tribe; or**

105d **(b) owned by an Indian or Indian tribe and is subject to restrictions against alienation.**

105e **(4) "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized**

105f **group or community that is recognized as eligible for the special programs and services**

105g **provided by the United States to Indians because of their status as Indians.**

106 [~~3~~] (5) ~~H~~←~~H~~ **"Navigable water body" means a natural watercourse that is useful for**

106a **commerce in**

107 **the water body's ordinary condition in the customary modes of trade and travel as of January 4,**

108 **1896.**

109 ~~H~~→ [~~4~~] (6) ~~H~~←~~H~~ **"Ordinary high water mark" means the line that a water body impresses on**

109a **the soil:**

110 **(a) by covering the soil long enough to ordinarily deprive the soil of terrestrial**

111 **vegetation; and**

112 **(b) at the level where the water body would normally stand during the high water**

113 period when the water body is not affected by a flood or drought.

114 ~~Ĥ~~→ [(5)] (7) ←~~Ĥ~~ "Permission" is as defined in Section 23-20-14.

115 ~~Ĥ~~→ [(6)] (8) ←~~Ĥ~~ "Private bed" means the bed of a water body that is not a navigable water
115a body.

116 ~~Ĥ~~→ [(7)] (9) ←~~Ĥ~~ "Private water" means water that a person, with a valid right to use the
116a water, has

117 reduced to actual, physical possession and exclusive control by placing the water in a

118 receptacle for storage or conveyance.

119 ~~H→ [(8)] (10) ←H~~ "Property to which access is restricted" means real property:

120 (a) that is cultivated land, as defined in Section 23-20-14;

121 (b) that is:

122 (i) properly posted, as defined in Section 23-20-14; or

123 (ii) posted as described in ~~H→ [Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass]~~

123a Subsection 76-6-206(2)(b)(iii) ←H ;

124 (c) that is fenced or enclosed as described in ~~H→ [Title 76, Chapter 6, Part 2, Burglary and~~

125 Criminal Trespass] Subsection 76-6-206(2)(b)(ii) ←H ; or

126 (d) that the owner or a person authorized to act on the owner's behalf has requested a
127 person to leave as provided by:

128 (i) Section 23-20-14; or

129 (ii) ~~H→ [Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass]~~ Subsection 76-6-

129a 206(2)(b)(i) ←H .

130 ~~H→ [(9)] (11) ←H~~ (a) "Public water" means water:

131 (i) described in Section 73-1-1; and

132 (ii) flowing on the surface:

133 (A) within a natural channel; or

134 (B) ponded in a natural lake or reservoir on a natural channel.

135 (b) "Public water" does not include private water.

136 ~~H→ [(10)] (12) ←H~~ "Recreational activity" means an activity that is:

137 (a) lawful;

138 (b) engaged in:

139 (i) for a recreational purpose; or

140 (ii) a commercial purpose if a person is guiding or outfitting another person who is

141 engaging in an activity listed in Subsection ~~H→ [(10)] (12) ←H~~ (c) for a recreational purpose; and

142 (c) one of the following:

143 (i) fishing;

144 (ii) swimming; or

145 (iii) floating on a vessel.

146 ~~H→ [(11)] (13) ←H~~ (a) "Single family dwelling" means a structure constructed and

146a customarily

147 occupied by one or more persons for the principle use as a single unit of residential housing.

148 (b) "Single family dwelling" does not include a:

149 (i) mobile home;

- 150 (ii) trailer;
- 151 (iii) duplex;
- 152 (iv) multi-unit apartment building;
- 153 (v) commercial structure;
- 154 (vi) outbuilding;
- 155 (vii) barn;
- 156 (viii) shed; or
- 157 (ix) structure with a purpose similar to the structures listed in Subsections

157a ~~H~~→ ~~(11)~~ **(13)** ←~~H~~ (b)(i)
 158 through (viii), regardless of human occupancy.

159 ~~H~~→ ~~(12)~~ **(14)** ←~~H~~ "Vessel" means a watercraft capable of floating and transporting a
 159a person on the

160 surface of the water, including a:

- 161 (a) boat;
- 162 (b) raft;
- 163 (c) canoe; or
- 164 (d) kayak.

165 Section 6. Section **73-6a-201** is enacted to read:

Part 2. Recreational Use of Private Beds

73-6a-201. Recreational use of public waters over private beds.

168 (1) Except as provided by Subsection (2), a person who touches a private bed is subject
 169 to liability for trespass under:

170 (a) Section 23-20-14;

171 (b) ~~H~~→ [Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass] Section 76-6-206 ←~~H~~ ;

171a and

172 (c) a civil action for a claim arising out of touching the private bed.

173 (2) Except as provided by Subsection (5), a person may engage in a recreational
 174 activity:

175 (a) on or within a public water:

176 (i) listed in Section 73-6a-202; and

177 (ii) located on or adjacent to property to which access is restricted; and

178 (b) by incidentally touching the bed of a public water described in Subsection (2)(a).

179 (3) While engaging in a recreational activity as authorized by Subsection (2), a person
 180 may leave the bed if:

181 (a) the person has permission to leave the bed; or
 182 (b) (i) an obstruction materially interferes with the recreational activity; and
 183 (ii) the person walks or portages around the obstruction in the most direct and least
 184 obtrusive manner to re-enter the public water at the nearest safe point above or below the
 185 obstruction.

186 (4) Except as provided by Subsection (3), a person engaging in a recreational activity
 187 as authorized by Subsection (2), may only enter or exit the surface or bed of a public water:

188 (a) on public property as authorized by the entity with jurisdiction over the use of the
 189 public property;

190 (b) on private property that is not property to which access is restricted; or

191 (c) on private property if an easement or other lawful access is obtained.

192 (5) (a) A person may not ~~H→~~ [fish] engage in a recreational activity ~~←H~~ :

193 ~~H→~~ [(a)] (i) ~~←H~~ in a public water:

194 ~~H→~~ [(i)] (A) ~~←H~~ listed in Section 73-6a-202; and

195 ~~H→~~ [(ii)] (B) ~~←H~~ located on or adjacent to property to which access is restricted; and

196 ~~H→~~ [(b)] (ii) ~~←H~~ within ~~H→~~ [500] 150 ~~←H~~ feet ~~H→~~ or within view, whichever is
 196a closer, ~~←H~~ of a single family dwelling that is built before May 12, 2009, and

197 qualifies for the residential exemption under Section 59-2-103 if the owner of the single family
 198 dwelling posts a notice visible from the bed indicating the segment of public water in which

199 ~~H→~~ [fishing] a recreational activity ~~←H~~ is prohibited by this section.

199a ~~H→~~ (b) Notwithstanding Subsection (5)(a), a person may walk ~~H→~~ or float ~~←H~~ within the
 199b bed of a public

199b water described by Subsection (5)(a) from an entrance to the bed described in Subsection (4) to

199c a ~~H→~~ [segment] segment ~~←H~~ of the public water in which a recreational activity is allowed

199d by this part. ~~←H~~

200 (6) A person may not engage in a recreational activity authorized by Subsection (2) if
 201 the recreational activity:

202 (a) destroys, damages, removes, or alters real or personal property, including a:

203 (i) fence, as provided in Section 4-26-4;

204 (ii) structure;

205 (iii) diversion works;

206 (iv) vegetation;

207 (v) soil; or

208 (vi) rock;

209 (b) alters or obstructs water flows;

210 (c) involves construction or maintenance of a structure on the bed; or

211 (d) is undertaken on:

- 212 (i) horseback;
 213 (ii) a motor vehicle, as defined in Section 41-6a-102; or
 214 (iii) an off-highway vehicle, as defined in Section 41-22-2.

215 Section 7. Section **73-6a-202** is enacted to read:

216 **73-6a-202. Public waters available for recreational use.**

217 As authorized by Section 73-6a-201, a person may engage in a recreational activity on
 218 or in the following public waters ~~H→~~ , **except where the public water flows over Indian**
 218a **land ←H :**

219 (1) Bear River from the Idaho state line in Cache County to the Great Salt Lake in Box
 220 Elder County;

221 (2) Little Bear River from the outlet of Porcupine Reservoir downstream to Highway
 222 30;

223 (3) Logan River from Highway 30 upstream to the United States Forest Service
 224 boundary line in Logan Canyon;

225 (4) Price River from the confluence with the White River and Lower Fish Creek
 226 downstream to the State Road 10 bridge;

227 (5) Jordan River from Utah Lake to the Great Salt Lake;

228 (6) Duchesne River from the Highway 40 bridge in Myton upstream to the ~~H→~~ [confluence
 229 **with] United States Forest Service boundary line on ←H the North Fork H→ and West**
 229a **Fork ←H of the Duchesne River;**

230 (7) Strawberry River from the confluence with the Duchesne River upstream to the
 231 Strawberry Reservoir dam;

232 (8) Sevier River from the confluence with Asay Creek south of the Highway 89 bridge
 233 downstream to Yuba Reservoir;

234 (9) Weber River from the confluence with the Gardners Fork in Summit County near
 235 the United States National Forest Service Road 138 downstream to the confluence with the
 236 Ogden River;

237 (10) Bear River from the Wyoming state line east of Woodruff downstream to the
 238 Wyoming state line northeast of Sage Creek Junction;

239 (11) Bear River from the Wyoming state line upstream to the confluence with the East
 240 Fork of the Bear River;

241 (12) Provo River from Utah Lake upstream to the Soapstone Guard Station off State
 242 Road 150 in Wasatch County;

243 (13) Ogden River from the Pineview Reservoir dam to the Great Salt Lake;

244 (14) North Branch and South Branch of the South Fork of the Ogden River from

245 Pineview Reservoir upstream to Highway 39;

246 (15) North Branch and South Branch of the South Fork of the Ogden River from

247 Causey Reservoir dam downstream to county road 8700 East;

248 (16) Lower Sevier River from the Yuba dam downstream to Sevier Lake; H→ [and] ←H

249 (17) White River from the Colorado state line in Uintah County downstream to the

250 confluence with the Green River H→ [;]

250a (18) Blacksmith Fork River from the State Road 165 bridge upstream to

250b Lions Hollow; H→ [and] ←H

250c (19) Logan River from the Red Banks Campground to the Idaho state line [;] ;

250d (20) Current Creek from the confluence with the Strawberry River upstream to United

250e States Forest Service boundary line;

250f (21) Lake Fork River upstream from the Highway 87 bridge to United States Forest

250g Service boundary line; and

250h (22) Diamond Fork from the confluence with Spanish Fork River upstream to United

250i States Forest Service boundary line. ←H

251 Section 8. Section **73-6a-203** is enacted to read:

252 **73-6a-203. Penalty.**

253 A person who violates this part is guilty of a class B misdemeanor.

254 Section 9. Section **73-6a-301** is enacted to read:

255 **Part 3. Recreational Access Board**

256 **73-6a-301. Recreational Access Board -- Creation -- Membership.**

257 (1) There is created within the Department of Natural Resources the Recreational
258 Access Board consisting of seven members appointed by the governor with the consent of the
259 Senate.

260 (2) The board shall consist of members nominated by the following interests:

261 (a) one individual from the governor's office who will act as the board chair;

262 (b) one individual from among nominees of the Department of Agriculture and Food;

263 (c) one individual from among nominees of an organization that promotes the
264 agricultural industry;

265 (d) one individual from among nominees of an organization that promotes private real
266 property interests;

267 (e) one individual from among nominees of the Division of Wildlife Resources;

268 (f) one individual from among nominees of the Division of Parks and Recreation; and

269 (g) one individual from among nominees of an organization that promotes sport

270 fishing.

271 (3) (a) Nominating entities shall nominate at least two, but no more than four,

272 individuals to the governor for the applicable position or vacancy that occurs on the board.

273 (b) The candidates nominated under Subsection (2) and the members appointed by the

274 governor may not be:

275 (i) an employee of the nominating entity; or

276 (ii) a member of the Legislature.

277 (4) (a) Except as required by Subsection (4)(b), the governor shall appoint a member
278 listed in Subsections (2)(b) through (g) to a three-year term.

279 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the
280 time of appointment, adjust the length of terms to ensure that the terms of board members are
281 staggered so at least two members are appointed each year.

282 (c) If a vacancy occurs, the nominating entity shall submit a list of nominees as
283 provided in Subsection (3) to the governor and the governor shall appoint a replacement for the
284 unexpired term.

285 (d) A board member may serve two terms unless the governor determines an additional
286 term is necessary due to exceptional circumstances.

287 (5) (a) The board shall elect a vice chair from its membership.

288 (b) When conducting a meeting, the chair or vice chair will vote only in the event of a
289 tie among the other members.

290 (c) Five members of the board shall constitute a quorum.

291 (d) A vote of two-thirds of the quorum at a meeting is necessary to take action on
292 behalf of the board.

293 (e) The executive director of the Department of Natural Resources or the executive
294 director's designee shall act as secretary to the board but is not a voting member of the board.

295 (6) (a) The board shall hold a sufficient number of meetings each year to expeditiously
296 conduct its business.

297 (b) A meeting may be called by the chair upon five days notice to the board members.

298 (c) A meeting may be held at the Salt Lake City office of the Department of Natural
299 Resources or elsewhere in the state as determined by the board.

300 (7) (a) (i) A member who is not a government employee may not receive compensation
301 or benefits for the member's service, but may receive per diem and expenses incurred in the
302 performance of the member's official duties at the rates established by the Division of Finance
303 under Sections 63A-3-106 and 63A-3-107.

304 (ii) A member may decline to receive per diem and expenses for the member's service.

305 (b) (i) A state government officer and employee member who does not receive salary,
 306 per diem, or expenses from the agency the member represents for the member's service may
 307 receive per diem and expenses incurred in the performance of the member's official duties at
 308 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

309 (ii) A state government officer and employee member may decline to receive per diem
 310 and expenses for the member's service.

311 (8) The governor may remove at any time a member for:

312 (a) official misconduct; or

313 (b) habitual or willful neglect of duty.

314 Section 10. Section **73-6a-302** is enacted to read:

315 **73-6a-302. Recreational Access Board -- Authority -- Responsibility.**

316 (1) The board shall determine if an application submitted under Section 73-6a-304
 317 satisfies the criteria listed in Section 73-6a-303.

318 (2) Based on the determination under Subsection (1), the board may recommend the
 319 Legislature include or exclude a public water in the list provided in Section 73-6a-202.

320 Section 11. Section **73-6a-303** is enacted to read:

321 **73-6a-303. Criteria for a recommendation by the Recreational Access**
 322 **Board.**

323 (1) Upon application, the board may recommend the Legislature include a public water
 324 in the list provided in Section 73-6a-202 if the public water:

325 (a) has a year-round water depth and flow capable of providing an opportunity to
 326 engage in a recreational activity;

327 (b) ~~H→~~ (i) ~~←H~~ has historically provided ~~H→~~ and continues to provide ~~←H~~ significant
 327a opportunity for a recreational activity for the

328 public; ~~H→~~ or

328a (ii) (A) was closed to public access after May 12, 1989, by the owner of the property on
 328b which the public water is located; and

328c (B) (I) was open to public access for at least 20 years prior to the closure described in
 328d Subsection (1)(b)(ii)(A); and

328e (II) was freely, notoriously, and continuously used by the public:

328f (Aa) without permission of the owner of the property on which the public water is
 328g located; and

328h (Bb) to an extent and under circumstances that the owner of the property on which the
 328i public water is located would reasonably recognize the need to protect vulnerable

328j **property rights;** ←H

329 (c) is of a nature that extending the authorization provided by this chapter will not
330 unreasonably impair the bed owner's property rights; and

331 (d) does not meet the description in Subsection (2)(b).

332 (2) Upon application, the board may recommend the Legislature remove a public water
333 or a segment of a public water from the list provided in Section 73-6a-202 if:

334 (a) the public water does not meet the criteria described in Subsection (1); or

335 (b) as of May 12, 2009:

- 336 (i) the public water is within the incorporated limits of a municipality;
- 337 (ii) legal public access, other than provided by this chapter, is not available on:
- 338 (A) the public water's surface;
- 339 (B) the public water's bed; or
- 340 (C) between the public water's bed and the single family dwellings described in this
- 341 Subsection (2);
- 342 (iii) four or more single family dwellings are located within a 150-yard segment of the
- 343 public water; and
- 344 (iv) each of the single family dwellings in Subsection (2)(b)(iii) is located 100 feet or
- 345 less from the bed.

346 Section 12. Section **73-6a-304** is enacted to read:

347 **73-6a-304. Application and procedures.**

348 (1) (a) A person may submit a written, signed application with the recreational access

349 application fee to the board petitioning to either include or exclude one public water segment

350 on or from the list provided in Section 73-6a-202.

351 (b) The application shall contain the following information:

- 352 (i) the applicant's name, address, and phone number;
- 353 (ii) a detailed description of the one public water segment that is the subject of the
- 354 application, including the sections, township, and range where the public water is located;
- 355 (iii) a clear and concise statement identifying the relief sought;
- 356 (iv) an explanation of the facts and circumstances justifying the relief sought based on
- 357 the criteria provided in Section 73-6a-303; and
- 358 (v) the name and current address of each person or entity owning real property abutting
- 359 or underlying the segment of the public water that is the subject of the application.

360 (2) The recreational access application fee shall consist of:

- 361 (a) the fee set by the Department of Natural Resources under Section 63-34-5; and
- 362 (b) the actual cost of notification required by Subsection (3)(a).

363 (3) (a) Upon receipt of an application, the board shall notify by certified mail:

- 364 (i) each county or municipality in which the segment of the public water is located; and
- 365 (ii) each person owning real property abutting or underlying the segment of the public
- 366 water that is the subject of the application.

367 (b) The notice required by Subsection (3)(a) shall state that:
 368 (i) the board has received an application; and
 369 (ii) the recipient may file with the board a written response within 30 days of receipt of
 370 the notice.

371 (c) The board shall schedule a meeting no sooner than 45 days following mailing of the
 372 last notice required by this section where the board:

373 (i) shall allow the applicant to orally present facts and arguments to the board in
 374 support of the application;

375 (ii) may accept and consider public comment at the meeting in support or opposition to
 376 the application;

377 (iii) shall discuss and consider the responses submitted by a person described in
 378 Subsection (3)(a); and

379 (iv) shall enter a decision consistent with the requirements of this chapter either to
 380 grant, deny, or grant in part the relief requested in the application.

381 Section 13. Section **73-6a-401** is enacted to read:

382 **Part 4. Miscellaneous**

383 **73-6a-401. Applicability of the chapter.**

384 The provisions of this chapter do not affect:

385 (1) the title or ownership of the surface waters, beds, or portage routes of public water;

386 (2) sovereign lands, as defined in Section 65A-1-1; or

387 (3) the rights recognized in Section 23-21-4.

388 Section 14. Section **73-6a-402** is enacted to read:

389 **73-6a-402. Landowner liability.**

390 An owner with a private bed that is subject to the authorization recognized in this
 391 chapter has the liability protection afforded by Title 57, Chapter 14, Limitation of Landowner
 392 Liability - Public Recreation.

393 **Section 15. Coordinating H.B. 187 with H.B. 153 -- Modifying language.**

394 If this H.B. 187 and H.B. 153, Trespass Law Amendments, both pass, it is the intent of
 395 the Legislature that, in preparing the Utah Code database for publication, the Office of
 396 Legislative Research and General Counsel ~~H~~→ [shall replace the references in] modify ←~~H~~ :

397 (1) Subsection 73-6a-102 ~~H~~→ [(8)] (10) ←~~H~~ (b) ~~H~~→ [(ii) from "Title 76, Chapter 6, Part 2,
 397a Burglary and

- 398 Criminal Trespass" to ":(A) Subsection 76-6-206(2)(b)(iii); or (B) Subsection
 399 76-6-206.3(2)(c)";] to read:
- 399a "(b) that is:
- 399b1 (i) properly posted, as defined in Section 23-20-14; or
- 399b (ii) posted as described in:
- 399c (A) Subsection 76-6-206(2)(b)(iii); or
- 399d (B) Subsection 76-6-206.3(2)(c);" ←H
- 400 (2) Subsection 73-6a-102 H→ [(8) (10) ←H (c) H→ [from "Title 76, Chapter 6, Part 2,
 400a Burglary and
- 401 Criminal Trespass" to ":(A) Subsection 76-6-206(2)(b)(ii); or (B) Subsection
 402 76-6-206.3(2)(b)";] to read:
- 402a "(c) that is fenced or enclosed as described in:
- 402b (i) Subsection 76-6-206(2)(b)(ii); or
- 402c (ii) Subsection 76-6-206.3(2)(b); or" ←H
- 403 (3) H→ [in] ←H Subsection 73-6a-102 H→ [(8) (10) ←H (d) H→ [(ii) from "Title 76,
 403a Chapter 6, Part 2, Burglary and
- 404 Criminal Trespass" to ":(A) Subsection 76-6-206(2)(b)(i); or (B) Subsection
 405 76-6-206.3(2)(a)"; and] to read:
- 405a "(d) that the owner or a person authorized to act on the owner's behalf has requested a
 405b person to leave as provided by:
- 405c (i) Section 23-20-14;
- 405d (ii) Subsection 76-6-206(2)(b)(i); or
- 405e (iii) Subsection 76-6-206.3(2)(a)."; and ←H
- 406 (4) Subsection 73-6a-201(1) H→ [(b) from "Title 76, Chapter 6, Part 2, Burglary and
 407 Criminal Trespass" to "Section 76-6-206 or Section 76-6-206.3".] to read:
- 407a "(1) Except as provided by Subsection (2), a person who touches a private bed is subject
 407b to liability for trespass under:
- 407c (a) Section 23-20-14;
- 407d (b) Section 76-6-206;
- 407e (c) Section 76-6-206.3; and
- 407f (d) a civil action for a claim arising out of touching the private bed." ←H

Fiscal Note**H.B. 187 1st Sub. (Buff) - Recreational Use of Public Waters on Private Property**

2009 General Session

State of Utah

State Impact

Enactment of this bill will require an ongoing appropriation of \$2,900 from fee revenues to the Department of Natural Resources for the expenses of the Recreational Access Board. The Department is authorized to establish and collect fees for the applications.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
Dedicated Credits	\$0	\$2,900	\$2,900	\$0	\$2,900	\$2,900
Total	\$0	\$2,900	\$2,900	\$0	\$2,900	\$2,900

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
