

FIRE LIABILITY MODIFICATIONS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Margaret Dayton

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to liability for a fire.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes a railroad owner, operator, and lessor jointly and severally liable and strictly liable for certain fires; and
- ▶ establishes evidence standards and penalties for an abandoned campfire.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-101, as last amended by Laws of Utah 1995, Chapter 291

76-6-104.5, as enacted by Laws of Utah 1998, Chapter 71

REPEALS AND REENACTS:

56-1-15, as last amended by Laws of Utah 2007, Chapter 136

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



28 Section 1. Section **56-1-15** is repealed and reenacted to read:

29 **56-1-15. Fire caused by railroad.**

30 (1) As used in this section, "fire costs" means the costs that result from a fire,

31 including:

32 (a) fire suppression costs;

33 (b) rehabilitation costs;

34 (c) stabilization costs; and

35 (d) other damages.

36 (2) The owner and lessor of a railroad right-of-way are jointly and severally liable and
37 strictly liable for the fire costs from a fire caused by the construction, operation, maintenance,

38 or repair of:

39 (a) a railroad right-of way; or

40 (b) a structure within the railroad right-of-way, including:

41 (i) a rail;

42 (ii) a rail bed; or

43 (iii) a bridge.

44 (3) The owner, operator, and lessor of a locomotive, rail car, or other rolling stock are
45 jointly and severally liable and strictly liable for the fire costs from a fire caused by material:

46 (a) emitted from a locomotive, rail car, or other rolling stock; or

47 (b) used or ejected by a railroad personnel.

48 Section 2. Section **76-6-101** is amended to read:

49 **76-6-101. Definitions.**

50 For purposes of this chapter:

51 (1) "Property" means any form of real property or tangible personal property which is
52 capable of being damaged or destroyed and includes a habitable structure.

53 (2) "Habitable structure" means any building, vehicle, trailer, railway car, aircraft, or
54 watercraft used for lodging or assembling persons or conducting business whether a person is
55 actually present or not.

56 (3) "Property" is that of another, if anyone other than the actor has a possessory or
57 proprietary interest in any portion thereof.

58 (4) "Value" means:

59 (a) The market value of the property, if totally destroyed, at the time and place of the
60 offense, or where cost of replacement exceeds the market value; or

61 (b) Where the market value cannot be ascertained, the cost of repairing or replacing the
62 property within a reasonable time following the offense.

63 (5) If the property damaged has a value that cannot be ascertained by the criteria set
64 forth in Subsections (4)(a) and (b) [~~above~~], the property shall be [~~deemed~~] considered to have a
65 value less than \$300.

66 (6) "Fire" means a flame, heat source capable of combustion, or material capable of
67 combustion caused, set, or maintained by a person for any purpose.

68 Section 3. Section **76-6-104.5** is amended to read:

69 **76-6-104.5. Abandoned fire -- Penalties.**

70 (1) A person is guilty of abandoning a fire if, under circumstances not amounting to the
71 offense of arson, aggravated arson, or causing a catastrophe under Title 76, Chapter 6, Part 1,
72 [~~Offenses Against Property, he~~] Property Destruction, the person leaves a fire:

73 (a) without first completely extinguishing it; and

74 (b) with the intent to not return to the fire.

75 (2) A person does not commit a violation of Subsection (1) [~~or (2)~~] if [~~he~~] the person
76 leaves a fire to report an uncontrolled fire.

77 (3) A violation of Subsection (1):

78 (a) is a class C misdemeanor if [~~the~~] there is no property damage [~~is or exceeds \$150~~
79 ~~but is less than \$300 in value~~];

80 (b) is a class B misdemeanor if property damage is [~~or exceeds \$300 but is~~] less than
81 \$1,000 in value; and

82 (c) is a class A misdemeanor if property damage is or exceeds \$1,000 in value.

83 (4) If a violation of Subsection [~~(3)~~] (1) involves a wildland fire, the violator is also
84 liable for suppression costs under Section 65A-3-4.

85 (5) A fire spreading or reigniting is prima facie evidence that the person did not
86 completely extinguish the fire as required by Subsection (1)(a).

Legislative Review Note
as of 2-4-09 1:52 PM

Office of Legislative Research and General Counsel