

1st Sub. H.B. 187

RECREATIONAL USE OF PUBLIC WATERS ON PRIVATE PROPERTY

Representative **Ben C. Ferry** proposes the following amendments:

1. Page 4, Line 106:

(3) "Indian land" means land that is:

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

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

(4) "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

106 ~~{(3)}~~ (5) "Navigable water body" means a natural watercourse that is useful for commerce in

2. Page 4, Line 109:

109 ~~{(4)}~~ (6) "Ordinary high water mark" means the line that a water body impresses on the soil:

3. Page 4, Lines 114 through 116:

114 ~~{(5)}~~ (7) "Permission" is as defined in Section 23-20-14.

115 ~~{(6)}~~ (8) "Private bed" means the bed of a water body that is not a navigable water body.

116 ~~{(7)}~~ (9) "Private water" means water that a person, with a valid right to use the water, has

4. Page 5, Line 119:

119 ~~{(8)}~~ (10) "Property to which access is restricted" means real property:

5. Page 5, Lines 123 through 125:

123 (ii) posted as described in ~~{Title 76, Chapter 6, Part 2, Burglary and Criminal
Trespass}~~ Subsection 76-6-206(2)(b)(iii) ;

124 (c) that is fenced or enclosed as described in ~~{Title 76, Chapter 6, Part 2, Burglary and
125 Criminal Trespass}~~ Subsection 76-6-206(2)(b)(ii) ; or

6. Page 5, Lines 129 through 130:

129 (ii) ~~{Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass}~~ Subsection 76-6-
206(2)(b)(i) .

130 ~~{(9)}~~ (11) (a) "Public water" means water:

7. Page 5, Line 136:

136 ~~{(10)}~~ (12) "Recreational activity" means an activity that is:

8. Page 5, Line 141:

141 engaging in an activity listed in Subsection ~~{(10)}~~ (12) (c) for a recreational purpose; and

9. Page 5, Line 146:

146 ~~{(11)}~~ (13) (a) "Single family dwelling" means a structure constructed and customarily

10. Page 6, Line 157:

157 (ix) structure with a purpose similar to the structures listed in Subsections ~~{(11)}~~ (13) (b)(i)

11. Page 6, Line 159:

159 ~~{(12)}~~ (14) "Vessel" means a watercraft capable of floating and transporting a person on the

12. Page 6, Line 171:

171 (b) ~~{Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass}~~ Section 76-6-206 ; and

13. Page 7, Line 199a

House Committee Amendments

2-23-2009:

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

14. Page 7, Line 199c

House Committee Amendments

2-23-2009:

199c a ~~{segment}~~ segment of the public water in which a recreational activity is allowed by this part. ←~~Ĥ~~

15. Page 8, Line 218:

218 or in the following public waters , except where the public water flows over Indian land ;

16. Page 8, Lines 228 through 229:

228 (6) Duchesne River from the Highway 40 bridge in Myton upstream to the ~~{confluence~~
229 with} United States Forest Service boundary line on the North Fork and West Fork of the

Duchesne River;

17. Page 9, Lines 250b through 250c
House Committee Amendments
2-23-2009:

250b Lions Hollow; ~~{and}~~

250c (19) Logan River from the Red Banks Campground to the Idaho state line ~~{.~~ ;

(20) Current Creek from the confluence with the Strawberry River upstream to United States Forest Service boundary line;

(21) Lake Fork River upstream from the Highway 87 bridge to United States Forest Service boundary line; and

(22) Diamond Fork from the confluence with Spanish Fork River upstream to United States Forest Service boundary line.

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18. Page 11, Lines 327 through 328:

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

328 public; or

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

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

(II) was freely, notoriously, and continuously used by the public;

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

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

19. Page 13, Line 393 through Page 14, Line 407:

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 ~~{shall replace the references in}~~ modify :

397 (1) Subsection 73-6a-102 ~~{(8)}~~ (10) (b) ~~{(ii) from "Title 76, Chapter 6, Part 2, 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:

"(b) that is:

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

(ii) posted as described in:

(A) Subsection 76-6-206(2)(b)(iii); or

(B) Subsection 76-6-206.3(2)(c);"

400 (2) Subsection 73-6a-102 {~~(8)~~} (10) (c) {~~from "Title 76, Chapter 6, Part 2, 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:

"(c) that is fenced or enclosed as described in:

(i) Subsection 76-6-206(2)(b)(ii); or

(ii) Subsection 76-6-206.3(2)(b); or"

403 (3) {~~in~~} Subsection 73-6a-102 {~~(8)~~} (10) (d) {~~(ii) from "Title 76, 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:

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

(i) Section 23-20-14;

(ii) Subsection 76-6-206(2)(b)(i); or

(iii) Subsection 76-6-206.3(2)(a)."; and

406 (4) Subsection 73-6a-201(1) {~~(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:

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

(a) Section 23-20-14;

(b) Section 76-6-206;

(c) Section 76-6-206.3; and

(d) a civil action for a claim arising out of touching the private bed."