

UTILITY LIABILITY LIMITS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions relating to the liability of electric entities under certain circumstances.

Highlighted Provisions:

This bill:

- ▶ contains legislative findings;
- ▶ establishes an actionable level of electrical energy below which no claim may be pursued;
- ▶ allows a livestock owner or operator to file a written notice of claim to an electric entity for a claim resulting from livestock contact with electrical energy at or above the actionable level;
- ▶ requires an electric entity to take measurements of the existence of stray current and provide written notice of its findings to the livestock owner or operation;
- ▶ limits the liability of an electric entity for claims based on electrical energy below the actionable level;
- ▶ provides for application of the limit of liability enacted by this bill to claims and causes of action; and
- ▶ enacts a severability provision.

Money Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 ENACTS:

32 **54-20-101**, Utah Code Annotated 1953

33 **54-20-102**, Utah Code Annotated 1953

34 **54-20-103**, Utah Code Annotated 1953

35 **54-20-201**, Utah Code Annotated 1953

36 **54-20-202**, Utah Code Annotated 1953

37 **54-20-203**, Utah Code Annotated 1953



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

40 Section 1. Section **54-20-101** is enacted to read:

41 **CHAPTER 20. ELECTRIC ENTITY LIABILITY LIMIT FOR STRAY CURRENT**

42 **Part 1. General Provisions**

43 **54-20-101. Title.**

44 This chapter is known as "Electric Entity Liability Limit for Stray Current."

45 Section 2. Section **54-20-102** is enacted to read:

46 **54-20-102. Definitions.**

47 As used in this chapter:

48 (1) "Actionable level" means stray current that is:

49 (a) a steady-state, root mean square, alternating current of 2.0 milliamps or more
50 through a 500 ohm resistor connected between livestock contact points, as measured by a
51 digital true root mean square meter; or

52 (b) a steady-state direct current of 2.8 milliamps or more through a 500 ohm resistor
53 connected between livestock contact points, as measured by a digital meter.

54 (2) "Electric entity" means:

55 (a) an electrical corporation, public utility, independent energy producer, qualifying
56 power producer, interlocal entity, public agency, or other person engaged in generating,
57 furnishing, transmitting, distributing, or marketing electric power for public or private use; and

58 (b) an agent, affiliate, employee, or independent contractor of any person or entity

59 described in Subsection (2)(a).

60 (3) "Interlocal entity" has the same meaning as defined in Section 11-13-103.

61 (4) "Livestock" means cattle, swine, sheep, or poultry.

62 (5) "Livestock contact points" means any two electrically conductive points that
63 livestock may simultaneously contact.

64 (6) "Public agency" has the same meaning as defined in Section 11-13-103.

65 (7) "Root mean square" means:

66 (a) a measure of the effective energy value of a wave or cycle; and

67 (b) for regularly-shaped alternating current sine waves, a value of 0.707 multiplied by
68 the peak value of the sine wave.

69 (8) "Steady state" means:

70 (a) for alternating current, a one minute average of root mean square amperage values,
71 excluding transients; and

72 (b) for direct current, a one minute average of amperage values, excluding transients.

73 (9) "Transient" means current impulses:

74 (a) lasting less than five thousandths of a second; and

75 (b) found on all types of electrical, data, and communications circuits.

76 Section 3. Section **54-20-103** is enacted to read:

77 **54-20-103. Legislative findings.**

78 The Legislature finds that:

79 (1) to protect livestock and livestock operations, it is necessary and appropriate to
80 establish an actionable level of stray current that is safely below any level that the scientific
81 research has shown is capable of harming livestock or adversely affecting the behavior, health,
82 or productivity of livestock;

83 (2) the efficient, effective, and safe generation, transmission, and distribution of
84 electric power and energy by electric entities is critical to the well-being of the citizens and the
85 economy of the state;

86 (3) the effects of stray current on livestock have been thoroughly researched and
87 studied and are well understood by the scientists who have conducted these studies;

88 (4) the scientists who have conducted these studies have reached a scientific consensus
89 about the level of stray current that is capable of affecting livestock;

90 (5) in particular, this peer-reviewed scientific research has definitively established a
91 level of stray current at or below which no effect on livestock's behavior, health, or
92 productivity has been shown;

93 (6) permitting an electric entity to face liability based on a level of stray current that the
94 scientific community has concluded is incapable of harming livestock seriously threatens the
95 efficient, effective, and safe generation, transmission, and distribution of electric power and
96 energy in the state, as well as the continuing viability of economic activity that depends on
97 electric power and energy;

98 (7) to guarantee the sufficient availability of efficient, effective, and safe electric power
99 and energy in the state, which requires the continuing operation of electric entities, it is
100 necessary and appropriate for the Legislature to establish a uniform, research-based actionable
101 level for electric entities with respect to stray current and livestock; and

102 (8) because the actionable level is set sufficiently below any level that scientific
103 research has shown is capable of harming livestock or adversely affecting the behavior, health,
104 or productivity of livestock, any potential of harm to livestock from stray current below this
105 level is highly remote and unexpected.

106 Section 4. Section **54-20-201** is enacted to read:

107 **Part 2. Limit of Liability**

108 **54-20-201. Written notice of claim -- Electric entity measurements and findings.**

109 (1) A livestock owner or operation that claims its livestock is being affected by any
110 kind of electrical energy, including stray current, attributable to an electric entity may provide
111 written notice of the claim to the electric entity.

112 (2) The notice required under Subsection (1) shall:

113 (a) specify why the livestock owner or operation believes its livestock is being affected
114 by electrical energy attributable to the electric entity; and

115 (b) include the results of any measurements of electrical energy the livestock owner or
116 operation has taken.

117 (3) (a) Within 30 days after receipt of a notice under Subsection (1), the electric entity
118 shall:

119 (i) take measurements to determine whether any stray current exists; and

120 (ii) provide written notice of its findings to the livestock owner or operation.

121 (b) A livestock owner or operation shall permit the electric entity reasonable access to
122 the livestock owner's or operation's property and facilities to enable the electric entity to take
123 measurements under Subsection (3)(a)(i).

124 Section 5. Section **54-20-202** is enacted to read:

125 **54-20-202. No liability for electrical energy below actionable level -- Actionable**
126 **level electrical energy creates no presumption -- Application of section.**

127 (1) An electric entity may not be held liable for damages or other relief if the claim for
128 damages or other relief is based on livestock contact with any kind of electrical energy that is
129 below the actionable level.

130 (2) The fact that electrical energy is equal to or greater than the actionable level does
131 not create a presumption of liability.

132 (3) This section applies to each claim or cause of action:

133 (a) whether sounding in contract, tort, or otherwise, and regardless of whether
134 damages, injunctive relief, or other relief is sought; and

135 (b) (i) that accrues before, on, or after May 14, 2013, including a claim or cause of
136 action for which an action has not been commenced; or

137 (ii) that is the subject of an action that is pending on May 14, 2013.

138 Section 6. Section **54-20-203** is enacted to read:

139 **54-20-203. Severability.**

140 A court's invalidation of any provision of this chapter does not affect the validity of any
141 other provision of this chapter.

Legislative Review Note
as of 2-20-13 6:48 AM

Office of Legislative Research and General Counsel