

PROTECTION OF STATE PARK RESOURCES

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Dixon M. Pitcher

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies Title 76, Chapter 6, Offenses Against Property.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits an individual from exercising unauthorized control over, damaging, defacing, excavating, altering, destroying, or removing any:
 - geological area, site, feature, or formation located on property administered, managed, or owned by the Division of Parks and Recreation; or
 - property, structure, or resource belonging to or located on property administered, managed, or owned by the Division of Parks and Recreation;
- ▶ provides a method of calculating the value of a division resource;
- ▶ authorizes the division to recover attorney fees, costs, and reimbursement for staff time spent on an enforcement proceeding from an individual who violates the chapter; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **76-6-206.2**, as last amended by Laws of Utah 2009, Chapter 344



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

33 Section 1. Section **76-6-206.2** is amended to read:

34 **76-6-206.2. Crimes on state park lands -- Penalties.**

35 (1) For purposes of this section:

36 (a) "Authorization" means specific written permission by, or contractual agreement
37 with, the Division of Parks and Recreation.

38 ~~[(b) "Criminal trespass" means the elements of the crime of criminal trespass, as set~~
39 ~~forth in Section 76-6-206.]~~

40 ~~[(c)]~~ (b) "Division" means the Division of Parks and Recreation, created in Section
41 **79-4-201**.

42 (c) "Division resource" means any:

43 (i) geological area, site, feature, or formation that is located on property administered,
44 managed, or owned by the division; or

45 (ii) property, structure, or resource administered, managed, or owned by the division or
46 located on property administered, managed, or owned by the division.

47 (d) "State park lands" means all lands administered by the division.

48 (2) A person is guilty of ~~[criminal trespass]~~ a crime on state park lands and is liable for
49 the civil damages prescribed in Subsection (5) if, under circumstances not amounting to a
50 greater offense, and without authorization, the person:

51 (a) constructs improvements or structures on state park lands;

52 (b) uses or occupies state park lands for more than 30 days after the cancellation or
53 expiration of authorization;

54 (c) knowingly or intentionally uses state park lands for commercial gain;

55 (d) intentionally or knowingly grazes livestock on state park lands, except as provided
56 in Section **72-3-112**; ~~[or]~~

57 (e) remains, after being ordered to leave by someone with actual authority to act for the
58 division, or by a law enforcement officer~~[-]~~;

59 ~~[(3) A person is not guilty of criminal trespass if that person enters onto state park~~
60 ~~lands:]~~

61 ~~[(a) without first paying the required fee; and]~~

62 ~~[(b) for the sole purpose of pursuing recreational activity:]~~

63 ~~[(4) A violation of Subsection (2) is a class B misdemeanor.]~~

64 (f) intentionally commits an act that causes damage, defacement, excavation,
65 permanent alteration, or destruction of any division resource; or

66 (g) removes or exercises control over any division resource with the intent to
67 temporarily or permanently deprive the division.

68 (3) (a) A violation of Subsections (2)(a) through (e) is a class B misdemeanor.

69 (b) A violation of Subsection (2)(f) or (g) is a:

70 (i) class A misdemeanor; or

71 (ii) third degree felony, if the damage to the division calculated under Subsection (3)(d)
72 is \$1,500 or greater.

73 (c) If an individual has already been convicted of a crime described in Subsection (2),
74 each subsequent conviction shall be punishable as one degree higher than provided in
75 Subsection (3)(b).

76 (d) The amount of damage to the division shall be calculated by:

77 (i) the value of the division resource involved in the violation; or

78 (ii) the estimated cost to restore or repair the division resource involved in the
79 violation, including:

80 (A) division staff time; and

81 (B) the cost of any expert evaluation of the possibility of restoring or repairing the
82 division resource.

83 (4) Any division resource discovered, collected, excavated, or offered for sale or
84 exchange as a result of a violation of Subsection (2) shall be surrendered to the division.

85 (5) In addition to restitution, as provided in Section 76-3-201, a person who commits
86 any act described in Subsection (2) may also be liable for civil damages in the amount of three
87 times the value of:

88 (a) damages resulting from a violation of Subsection (2);

89 (b) the ~~[water, mineral, vegetation, improvement, or structure on state park lands]~~

90 division resource that is removed, damaged, altered, defaced, excavated, destroyed, used, or
91 consumed without authorization; or

92 ~~[(c) the historical, prehistorical, archaeological, or palaeontological resource on state~~
93 ~~park lands that is removed, destroyed, used, or consumed without authorization; or]~~

94 ~~[(d)]~~ (c) the consideration which would have been charged by the division for
95 unauthorized use of the land and resources during the period of trespass.

96 (6) (a) In addition to the damages recoverable under Subsection (5), a person who
97 violates Subsection (2) is also liable to the division for any costs incurred by the division in any
98 enforcement proceeding, including attorney fees, costs, and reimbursement for time spent by a
99 division employee on the enforcement proceeding.

100 (b) The division shall have the burden of proof by a preponderance of the evidence in a
101 civil or administrative proceeding.

102 ~~[(6)]~~ (7) Civil damages under ~~[Subsection (5)]~~ Subsections (5) and (6) may be
103 collected in a separate action by the division, and shall be deposited in the State Parks Fees
104 Restricted Account as established in Section [79-4-402](#).

Legislative Review Note
as of 1-6-14 2:01 PM

Office of Legislative Research and General Counsel