

## Chapter 3

### Illegal Activities on State Lands and Wildland Fire Liability

#### 65A-3-1 Trespassing on state lands -- Penalties.

- (1) As used in this section:
  - (a) "Anchored" means the same as that term is defined in Section 73-18-2.
  - (b) "Beached" means the same as that term is defined in Section 73-18-2.
  - (c) "Motorboat" means the same as that term is defined in Section 73-18-2.
  - (d) "Motor vehicle" means the same as that term is defined in Section 41-22-2.
  - (e) "Vessel" means the same as that term is defined in Section 73-18-2.
- (2) A person is guilty of a class B misdemeanor and liable for the civil damages prescribed in Subsection (4) if, without written authorization from the division, the person:
  - (a) removes, extracts, uses, consumes, or destroys any mineral resource, gravel, sand, soil, vegetation, or improvement on state lands;
  - (b) grazes livestock on state lands;
  - (c) uses, occupies, or constructs improvements or structures on state lands;
  - (d) uses or occupies state lands for more than 30 days after the cancellation or expiration of written authorization;
  - (e) knowingly and willfully uses state lands for commercial gain;
  - (f) appropriates, alters, injures, or destroys any historical, prehistorical, archaeological, or paleontological resource on state lands;
  - (g) starts or maintains a fire on state lands except in a posted and designated area;
  - (h) camps on state lands, except in posted or designated areas;
  - (i) camps on state lands for longer than 15 consecutive days at the same location or within one mile of the same location;
  - (j) camps on state lands for 15 consecutive days, and then returns to camp at the same location before 15 consecutive days have elapsed after the day on which the person left that location;
  - (k) leaves an anchored or beached vessel unattended for longer than 48 hours on state lands;
  - (l) anchors or beaches a vessel on state lands at the same location for longer than 72 hours or within two miles of the same location for longer than 72 hours;
  - (m) anchors or beaches a vessel on state lands at the same location for 72 hours, and then returns to anchor or beach the vessel at the same location or within two miles of the same location before 72 hours have elapsed after the day on which the person left that location;
  - (n) posts a sign claiming state land as private property;
  - (o) prohibits, prevents, or obstructs public entry to state land where public entry is authorized by the division; or
  - (p) parks or operates a motor vehicle on the bed of a navigable lake or river except in those areas:
    - (i) supervised by the Division of State Parks, the Division of Outdoor Recreation, or another state or local enforcement entity; and
    - (ii) which are posted as open to vehicle use.
- (3) A person is guilty of a class C misdemeanor and liable for civil damages described in Subsection (4) if, on state lands surrounding Bear Lake and without written authorization of the division, the person:
  - (a) parks or operates a motor vehicle in an area on the exposed lake bed that is specifically posted by the division as closed for usage;
  - (b) camps, except in an area that is posted and designated as open to camping;

- (c) exceeds a speed limit of 10 miles per hour while operating a motor vehicle;
  - (d) drives recklessly while operating a motor vehicle;
  - (e) parks or operates a motor vehicle within an area between the water's edge and 100 feet of the water's edge except as necessary to:
    - (i) launch or retrieve a motorboat, if the person is permitted to launch or retrieve a motorboat;
    - (ii) transport an individual with limited mobility; or
    - (iii) deposit or retrieve equipment to a beach site;
  - (f) travels in a motor vehicle parallel to the water's edge:
    - (i) in areas designated by the division as closed;
    - (ii) a distance greater than 500 yards; or
    - (iii) for purposes other than travel to or from a beach site;
  - (g) parks or operates a motor vehicle between the hours of 10 p.m. and 7 a.m.; or
  - (h) starts a campfire or uses fireworks.
- (4) A person who commits any act described in Subsection (2) or (3) is liable for damages in the amount of:
- (a) three times the value of the mineral or other resource removed, destroyed, or extracted;
  - (b) three times the value of damage committed; or
  - (c) three times the consideration which would have been charged by the division for use of the land during the period of trespass.
- (5) In addition to the damages described in Subsection (4), a person found guilty of a misdemeanor under Subsection (2) or (3) is subject to the penalties provided in Section 76-3-204.
- (6) Money collected under this section shall be deposited in the fund in which similar revenues from that land would be deposited.

Amended by Chapter 68, 2022 General Session  
Amended by Chapter 234, 2022 General Session

**65A-3-2 Wildland fire prevention -- Prohibited acts.**

- (1) A person is guilty of a class B misdemeanor who:
- (a) throws or places a lighted cigarette, cigar, firecracker, ashes, or other flaming or glowing substance that may cause a fire on a highway or a wildland fire;
  - (b) obstructs the state forester, an employee of the division, or an agent of the division, in the performance of controlling a fire;
  - (c) refuses, on proper request of the state forester, an employee of the division, or an agent of the division, to assist in the controlling of a fire, without good and sufficient reason; or
  - (d) fires a tracer or incendiary ammunition:
    - (i) anywhere except within the confines of established military reservations; or
    - (ii) except with the written permission of the director of the Division of Forestry, Fire, and State Lands, given upon written request, if the director:
      - (A) specifies a limited period of time and a limited area in which the ammunition may be used; and
      - (B) issues the written permission in accordance with this title and applicable rules.
- (2) Fines assessed under this section are deposited in the General Fund.

Amended by Chapter 78, 2015 General Session

**65A-3-2.5 Wildland fire and unmanned aircraft.**

- (1) As used in this section:

- (a) "Incident commander" means the government official or employee in command of the response to a wildland fire.
  - (b) "Neutralize" means to terminate the operation of an unmanned aircraft by:
    - (i) disabling or damaging the unmanned aircraft;
    - (ii) interfering with any portion of the unmanned aircraft system associated with the unmanned aircraft; or
    - (iii) otherwise taking control of the unmanned aircraft or the unmanned aircraft system associated with the unmanned aircraft.
  - (c) "Sanctioned entity" includes a person that oversees, is employed by, or is working under the direction of:
    - (i) a government entity;
    - (ii) a telecommunications provider;
    - (iii) a utility provider;
    - (iv) the owner or operator of a pipeline;
    - (v) an insurance provider;
    - (vi) a resource extraction entity;
    - (vii) news media;
    - (viii) a person that operates an unmanned aircraft system under a certificate of waiver, a certificate of authorization, or any other grant of authority obtained from the Federal Aviation Administration that expressly authorizes operation of the unmanned aircraft system; or
    - (ix) a person similar to a person described in Subsections (1)(c)(i) through (vii).
  - (d) "Unmanned aircraft" means an aircraft that is:
    - (i) capable of sustaining flight; and
    - (ii) operated with no possible direct human intervention from on or within the aircraft.
  - (e) "Unmanned aircraft system" means the entire system used to operate an unmanned aircraft, including:
    - (i) the unmanned aircraft;
    - (ii) communications equipment;
    - (iii) navigation equipment;
    - (iv) controllers;
    - (v) support equipment; and
    - (vi) autopilot functionality.
- (2) A person may not operate an unmanned aircraft system in a manner that causes an unmanned aircraft to fly within an area that is under a temporary flight restriction that is issued by the Federal Aviation Administration as a result of the wildland fire, or an area designated as a wildland fire scene on a system managed by a federal, state, or local government entity that disseminates emergency information to the public, unless the person operates the unmanned aircraft system with the permission of, and in accordance with the restrictions established by, the incident commander.
- (3) A person, other than a government official or a government employee acting within the person's capacity as a government official or government employee, that recklessly operates an unmanned aircraft system in a manner that causes an unmanned aircraft to fly within an area described in Subsection (2) is guilty of:
- (a) except as provided in Subsection (3)(b), (c), or (d), a class B misdemeanor, punishable by imprisonment as provided in Section 76-3-204 and a fine not to exceed \$2,500;
  - (b) except as provided in Subsection (3)(c) or (d), a class A misdemeanor, punishable by imprisonment as provided in Section 76-3-204 and a fine not to exceed \$5,000, if the operation of the unmanned aircraft system:

- (i) causes an aircraft being used to contain or control a wildland fire to drop a payload of water or fire retardant in a location other than the location originally designated for the aircraft to drop the payload;
  - (ii) causes an aircraft being used to contain or control a wildland fire to land without dropping a payload of water or fire retardant in the location originally designated for the aircraft to drop the payload; or
  - (iii) prevents an aircraft, intended for use in containing or controlling a wildland fire, from taking flight;
- (c) except as provided in Subsection (3)(d), a third degree felony, punishable by imprisonment as provided in Section 76-3-203 and a fine not to exceed \$10,000, if the operation of the unmanned aircraft system causes the unmanned aircraft to come into direct physical contact with a manned aircraft; or
- (d) a second degree felony, punishable by imprisonment as provided in Section 76-3-203 and a fine not to exceed \$15,000, if the operation of the unmanned aircraft is the proximate cause of a manned aircraft colliding with the ground, a structure, or another manned aircraft.
- (4) A judge may require a person convicted of a violation under Subsection (3) to pay restitution in an amount equal to damages resulting from the violation, including damages to person or property, the costs of a flight, and any loss of fire retardant.
- (5) The incident commander of a wildland fire shall grant reasonable access to the area of, and within three miles of, the wildland fire to a sanctioned entity if:
- (a) the access is for a purpose related to the responsibilities or business of the sanctioned entity; and
  - (b) the access can be granted, with reasonable restrictions, without imposing a safety risk or impairing efforts to control the wildland fire.
- (6) The chief law enforcement officer for a jurisdiction located in an area described in Subsection (2) or the incident commander of a wildland fire may neutralize or authorize another to neutralize an unmanned aircraft that is flying in an area described in Subsection (2) if the chief law enforcement officer or the incident commander determines that the neutralization is reasonably necessary to terminate a violation described in Subsection (3).
- (7) A political subdivision of the state, or an entity within a political subdivision of the state, may not enact a law, ordinance, or rule governing the private use of an unmanned aircraft in relation to a wildland fire.

Amended by Chapter 3, 2016 Special Session 3

**65A-3-3 Enforcement of laws -- City, county, or district attorney to prosecute.**

- (1) It is the duty of the division, county sheriffs, their deputies, peace officers, and other law enforcement officers within the law enforcement jurisdiction to enforce the provisions of this chapter and to investigate and gather evidence that may indicate a violation under this chapter.
- (2)
- (a) The city attorney, county attorney, or district attorney, as appropriate under Sections 10-3-928, 17-18a-202, and 17-18a-203, shall prosecute any criminal violations of this chapter.
  - (b) The counsel for an eligible entity, as defined in Section 65A-8-203, shall initiate a civil action to recover suppression costs incurred by the eligible entity for suppression of fire on private land.

Amended by Chapter 174, 2016 General Session

**65A-3-4 Liability for causing wildland fires.**

- (1) As used in this section:
  - (a) "Electric cooperative" means the same as that term is defined in Section 54-24-102.
  - (b) "Electrical transmission wildland fire protection plan" means a wildland fire protection plan, as defined in Section 54-24-102, that is:
    - (i) prepared and submitted by a qualified utility and approved as provided in Section 54-24-201; or
    - (ii) prepared and submitted by an electric cooperative and approved as provided in Section 54-24-203.
  - (c) "Qualified utility" means the same as that term is defined in Section 54-17-801.
- (2)
  - (a) Except as provided in Subsection (3), a person who negligently, recklessly, or intentionally causes or spreads a wildland fire shall be liable for the cost of suppressing that wildland fire, regardless of whether the fire begins on:
    - (i) private land;
    - (ii) land owned by the state;
    - (iii) federal land; or
    - (iv) tribal land.
  - (b) The conduct described in Subsection (2)(a) includes any negligent, reckless, or intentional conduct, and is not limited to conduct described in Section 65A-3-2.
- (3) In an action under this section to recover for property damage resulting from a wildland fire or to recover the cost of fire suppression resulting from a wildland fire, a qualified utility or electric cooperative may not be considered to have negligently caused a wildland fire if:
  - (a)
    - (i) the electrical transmission wildland fire protection plan of the qualified utility or electric cooperative identifies and addresses the cause of the wildland fire for fire mitigation purposes; and
    - (ii) at the origin of the wildland fire, the qualified utility or electric cooperative has completed the fire mitigation work identified in the electrical transmission wildland fire protection plan, including:
      - (A) inspection, maintenance, and repair activities;
      - (B) modifications or upgrades to facilities or construction of new facilities;
      - (C) vegetation management work; and
      - (D) preventative programs; or
  - (b)
    - (i) the qualified utility or electric cooperative is denied or delayed access to a right-of-way on land owned by the state, a federal agency, or a tribal government after the qualified utility or electric cooperative requests access to the right-of-way to perform vegetation management or fire mitigation work in accordance with an electrical transmission wildland fire protection plan; and
    - (ii) the electrical transmission wildland fire protection plan identifies and addresses the cause of the wildland fire for fire mitigation purposes.
- (4) A person who incurs costs to suppress a wildland fire may bring an action under this section to recover those costs.
- (5)
  - (a) A property owner who suffers damages resulting from a wildland fire may bring an action under this section to recover those damages.

- (b) An award for damages to real property resulting from a wildland fire, including the loss of vegetation, shall be the lesser of:
  - (i) the cost to restore the real property to its pre-wildland fire condition; or
  - (ii) the difference between:
    - (A) the fair market value of the real property before the wildland fire; and
    - (B) the fair market value of the real property after the wildland fire.
- (6) A person who suffers damage from a wildland fire may pursue all other legal remedies in addition to seeking damages under Subsection (4) or (5).

Amended by Chapter 162, 2020 General Session