

1 **PENALTY FOR ABANDONED ^h [~~OR UNATTENDED~~] ^h**

2 **CAMPFIRE**

3 1998 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Dave Hogue**

6 AN ACT RELATING TO NATURAL RESOURCES AND THE CRIMINAL CODE;

7 CREATING OFFENSES REGARDING ^h [~~LEAVING AN UNATTENDED~~] **ABANDONING A ^h FIRE**

7a **OR**

8 **BUILDING A FIRE NEAR FLAMMABLE MATERIALS; SPECIFYING PENALTIES; AND**

9 **CLARIFYING EXEMPTIONS.**

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 **AMENDS:**

12 **65A-8-9**, as repealed and reenacted by Chapter 294, Laws of Utah 1994

13 **76-6-104**, as last amended by Chapter 291, Laws of Utah 1995

14 **ENACTS:**

15 **76-6-104.5**, Utah Code Annotated 1953

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

17 Section 1. Section **65A-8-9** is amended to read:

18 **65A-8-9. Closed fire season -- Notice -- Violations -- Burning permits -- Personal**
19 **liability -- Exemptions from burning permits.**

20 (1) (a) The period from June 1 to October 31 of each year is a closed fire season
21 throughout the state.

22 (b) The state forester may advance or extend the closed season wherever and whenever
23 that action is necessary.

24 (c) The alteration of the closed season shall be done by posting the appropriate
25 proclamation in the courthouse of each county seat for at least seven days in advance of the date
26 the change is effective.

27 (2) During the closed season it is a class B misdemeanor to set on fire, or cause to be set

1 on fire, any inflammable material on any forest, brush, range, grass, grain, stubble, or hay land
2 without:

- 3 (a) first securing a written permit from the state forester or a designated deputy[.]; and
- 4 (b) complying fully with the terms and conditions prescribed by the permit.

5 (3) It is the duty of the district fire warden appointed by the state forester, or the county
6 sheriff in nonparticipating counties, to issue burning permits using the form prescribed by the
7 division.

8 (4) (a) The burning permit does not relieve an individual from personal liability due to
9 neglect or incompetence.

10 (b) If a fire escapes control of the permittee and necessitates fire control action or does
11 injury to the property of another, this may be held prima facie evidence that the fire was not safe.

12 (5) [(a)] The state forester, his deputies, and the county sheriffs may refuse, revoke,
13 postpone, or cancel permits when they find it necessary in the interest of public safety.

14 [(b)] (6) (a) A burning permit is not required for the burning of fence lines on cultivated
15 lands, canals, or irrigation ditches if:

- 16 (i) the burning does not pose a threat to forest, range, or watershed lands;
- 17 (ii) due care is used in the control of the burning; and
- 18 (iii) the individual notifies the nearest fire department of the approximate time the burning
19 will occur.

20 [(c)] (b) Failure to notify the nearest fire department of the burning as required by this
21 section is a class B misdemeanor.

22 (7) A burning conducted in accordance with Subsection (6) is not a reckless burning under
23 Section 76-6-104 unless the fire escapes control and requires fire control action.

24 Section 2. Section **76-6-104** is amended to read:

25 **76-6-104. Reckless burning.**

26 (1) A person is guilty of reckless burning if the person:

27 (a) recklessly starts a fire or causes an explosion which endangers human life; [or]

28 (b) having started a fire, whether recklessly or not, and knowing that it is spreading and
29 will endanger the life or property of another, either fails to take reasonable measures to put out or
30 control the fire or fails to give a prompt fire alarm; [or]

31 (c) builds or maintains a fire without taking reasonable steps to remove all flammable

1 materials surrounding the site of the fire as necessary to prevent the fire's spread or escape; or
2 ~~[(c)]~~ (d) damages the property of another by reckless use of fire or causing an explosion.

3 (2) (a) A violation of ~~[Subsections]~~ Subsection (1)(a) [and] or (b) is a class A
4 misdemeanor.

5 ~~[(3)]~~ (b) A violation of Subsection (1)(c) is~~[:]~~ a class B misdemeanor.

6 (c) A violation of Subsection (1)(d) is:

7 ~~[(a)]~~ (i) a class A misdemeanor if damage to property is or exceeds \$1,000 in value;

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

10 ~~[(c)]~~ (iii) a class C misdemeanor if the damage to property is or exceeds \$150 but is less
11 than \$300 in value.

12 ~~[(4)]~~ (d) Any other violation under Subsection ~~[(c) shall constitute]~~ (1)(d) is an infraction.

13 Section 3. Section **76-6-104.5** is enacted to read:

14 **76-6-104.5. Abandoned ~~h~~ [or unattended] ~~h~~ fire -- Penalties.**

15 (1) A person is guilty of abandoning a fire if ~~h~~ , **UNDER CIRCUMSTANCES NOT**

15a **AMOUNTING TO THE OFFENSE OF ARSON, AGGRAVATED ARSON, OR CAUSING A CATASTROPHE**

15b **UNDER TITLE 76, CHAPTER 6, PART 1, OFFENSES AGAINST PROPERTY,** ~~h~~ he leaves a fire:

16 (a) without first completely extinguishing it; and

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

18 ~~h~~ **[(2) A person is guilty of leaving a fire unattended if he leaves a fire:**

19 ~~—~~ **(a) without completely extinguishing it; and**

20 ~~—~~ **(b) he is not within a distance that allows him to be reasonably able to observe the fire and**

21 **maintain control of it.]**

22 ~~[(3)]~~**(2)** ~~h~~ A person does not commit a violation of Subsection (1) or (2) if he leaves a fire to
23 report an uncontrolled fire.

24 ~~h~~ ~~[(4)]~~ **(3)** ~~h~~ A violation of Subsection (1) ~~h~~ [or (2) that] ~~h~~ :

24a ~~h~~ **(a) IS A CLASS C MISDEMEANOR IF THE PROPERTY DAMAGE IS OR EXCEEDS \$150 BUT IS**

24b **LESS THAN \$300 IN VALUE; ~~h~~**

25 ~~h~~ **[(a) does not result in damage to property]**

25a **(b) ~~h~~ is a class B misdemeanor ~~h~~ IF PROPERTY DAMAGE IS OR EXCEEDS \$300 BUT IS LESS**

~~h~~

25b h THAN \$1,000 IN VALUE h ; and
26 h [~~(b)~~ results in damage to property]
26a (c) h is a class A misdemeanor h IF PROPERTY DAMAGE IS OR EXCEEDS \$1,000 IN VALUE h .
27 h [~~(5)~~ (4) h If a violation of Subsection h [~~(4)(b)~~ (3) h involves a wildland fire, the violator is
27a also liable
28 for suppression costs under Section 65A-3-4.

Legislative Review Note
as of 11-24-97 8:05 AM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel