

**Representative Dennis H. Iverson** proposes to substitute the following bill:

**ECO-TERRORISM PROHIBITION AND  
PENALTIES**

1998 GENERAL SESSION

STATE OF UTAH

**Sponsor: Dennis H. Iverson**

AN ACT RELATING TO THE CRIMINAL CODE; ENHANCING CRIMINAL PENALTIES FOR CRIMINAL ACTS INTENDED TO OBSTRUCT OR IMPEDE TIMBER, MINING, OR AGRICULTURAL INDUSTRIES ~~§ [; AND EXEMPTING ANY CONSPIRACY OR SOLICITATION TO COMMIT THESE OFFENSES FROM THE REDUCTION IN LEVEL OF OFFENSE PROVIDED FOR CONSPIRACY OR SOLICITATION]~~ § .

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

ENACTS:

§ ~~[76-4-205, Utah Code Annotated 1953]~~ §

~~76-6-108~~, Utah Code Annotated 1953

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

§ [Section 1. Section ~~76-4-205~~ is enacted to read:

~~76-4-205. Conspiracy or solicitation to obstruct timber, mining, or agricultural industries -- No reduction in penalty.~~

~~If a person is found guilty of conspiracy or solicitation to commit any criminal offense with the intent to halt, impede, obstruct, or interfere with the lawful management, cultivation, or harvesting of trees or timber, or the management or operations of agricultural or mining industries, the provisions of Sections 76-4-202 and 76-4-204 respectively do not apply to the offense, and the degree of the offense is the same as if the person committed the offense.~~] §

Section § [2] 1 § . Section ~~76-6-108~~ is enacted to read:

~~76-6-108. Offenses committed against timber, mining, or agricultural industries --~~

1 **Enhanced penalties.**

2 (1) A person who commits any criminal offense with the intent to halt, impede, obstruct,  
3 or interfere with the lawful management, cultivation, or harvesting of trees or timber, or the  
4 management or operations of agricultural or mining industries is subject to an enhanced penalty  
5 for the offense as provided below. § **HOWEVER, THIS SECTION DOES NOT APPLY TO ACTION**  
5a **PROTECTED BY THE NATIONAL LABOR RELATIONS ACT, 29 U.S.C. SECTION 151 ET SEQ., OR THE**  
5b **FEDERAL RAILWAY LABOR ACT, 45 U.S.C. SECTION 151 ET SEQ.** §

6 (2) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to  
7 be subscribed upon the complaint in misdemeanor cases or the information or indictment in felony  
8 cases notice that the defendant is subject to the enhanced penalties provided under this section.  
9 The notice shall be in a clause separate from and in addition to the substantive offense charged.

10 (b) If the subscription is not included initially, the court may subsequently allow the  
11 prosecutor to amend the charging document to include the subscription if the court finds the  
12 charging documents, including any statement of probable cause, provide notice to the defendant  
13 of the allegation he committed the offense as described in Subsection (1), or if the court finds the  
14 defendant has not otherwise been substantially prejudiced by the omission.

15 (3) The penalties are enhanced as provided in this subsection:

16 (a) a class C misdemeanor is a class ~~h~~ **[A] B h** misdemeanor, with a mandatory fine of not less  
17 than \$1,000, which is in addition to any term of imprisonment the court may impose;

18 (b) a class B misdemeanor is a Class A misdemeanor, with a fine of not less than \$2,500,  
19 which is in addition to any term of imprisonment the court may impose ;

20 (c) a class A misdemeanor is a third degree felony, with a fine of not less than \$5,000,  
21 which is in addition to any term of imprisonment the court may impose;

22 (d) a third degree felony is a second degree felony, with a fine of not less than \$7,500,  
23 which is in addition to any term of imprisonment the court may impose;; and

24 (e) a second degree felony is subject to a fine of not less than \$10,000, which is in addition  
25 to any term of imprisonment the court may impose.

26 (4) § ~~[(a)]~~ § This section does not create any separate offense but provides an enhanced penalty  
27 for the primary offense.

28 § ~~[(b) The sentencing judge rather than the jury shall decide whether to impose the~~  
29 ~~enhanced~~  
30 ~~penalty under this section. The imposition of the penalty is contingent upon a finding by the~~  
31 ~~sentencing judge that this section is applicable. In conjunction with sentencing the court shall~~  
~~enter written findings of fact concerning the applicability of this section.] §~~

1           § ~~[(5) The court may suspend the imposition or execution of the sentence required under this~~  
2 ~~section if the court:~~  
3 ~~—— (a) finds that the interests of justice would be best served; and~~  
4 ~~—— (b) states the specific circumstances justifying the disposition on the record~~  
4a ~~h [and in writing] h ] §~~

lilac-February 5, 1998