

1 **AUTHORITY TO CLOSE AREAS WITHIN**
2 **STATE PARKS**

3 1999 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Michael R. Styler**

6 AN ACT RELATING TO PARKS AND RECREATION; ALLOWING THE BOARD OF
7 PARKS AND RECREATION TO MAKE RULES CLOSING OR RESTRICTING ACCESS
8 TO STATE PARKS; AND MAKING TECHNICAL AMENDMENTS.

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

10 AMENDS:

11 **41-22-12**, as last amended by Chapter 363, Laws of Utah 1997

12 **63-11-17**, as last amended by Chapter 315, Laws of Utah 1997

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

14 Section 1. Section **41-22-12** is amended to read:

15 **41-22-12. Restrictions on use of public lands.**

16 (1) ~~[AH] Except as provided in Section 63-11-17,~~ federal agencies are encouraged and
17 agencies of the state and its subdivisions shall refrain from closing any public land to responsible
18 off-highway vehicle use.

19 (2) A person may not operate and an owner of an off-highway vehicle may not give another
20 person permission to operate an off-highway vehicle on any public land which is closed to
21 off-highway vehicles.

22 Section 2. Section **63-11-17** is amended to read:

23 **63-11-17. Powers and duties of Board and Division of Parks and Recreation.**

24 ~~[(1) The board may:]~~

25 ~~[(a) establish the policies best designed to accomplish the objectives and purposes set out~~
26 ~~in this act; and]~~

27 ~~[(b) make rules governing the use and protection of the state park system.]~~

28 ~~[(2) (a) The division may acquire real and personal property in the name of the state by all~~
 29 ~~legal and proper means, including purchase, gifts, devise, eminent domain, lease, designation of~~
 30 ~~state land, exchange, or otherwise, subject to the approval of the executive director and the~~
 31 ~~governor.]~~

32 ~~[(b) As used in this subsection section, "real property" includes land under water as well~~
 33 ~~as upland and all other property commonly or legally defined as real property.]~~

34 ~~[(c) In acquiring any real or personal property, or in establishing or designating any area~~
 35 ~~as herein authorized in this Subsection (2), the credit of the state may not be pledged without the~~
 36 ~~consent of the legislature.]~~

37 ~~[(3)] (1) (a) The board may ~~[enact appropriate regulations to]~~ make rules:~~

38 (i) governing the use of the state park system;

39 (ii) to protect state parks and ~~[property]~~ their natural and cultural resources from misuse
 40 or damage, including watersheds, plants, wildlife, and park amenities; and ~~[to]~~

41 (iii) to provide for public safety and preserve the peace within state parks.

42 (b) To accomplish the purposes stated in Subsection (1)(a), the board may enact rules that:

43 (i) close or partially close state parks; or

44 (ii) establish use or access restrictions within state parks.

44a h (c) RULES MADE UNDER SUBSECTION (1) MAY NOT HAVE THE EFFECT OF PREVENTING
 44b THE TRANSFER OF LIVESTOCK ALONG A LIVESTOCK HIGHWAY ESTABLISHED IN ACCORDANCE
 44c WITH SECTION 72-3-112. h

45 ~~[(4)] (2) The Division of Wildlife Resources shall retain the power and jurisdiction~~
 46 ~~conferred upon it by law within state parks and on property controlled by the Division of Parks and~~
 47 ~~Recreation with reference to fish and game~~[-, subject to any reasonable rules and regulations the~~~~
 48 ~~Board of Parks and Recreation may make to ensure the accomplishment of the objectives and~~
 49 ~~purposes of this act].~~

50 ~~[(5)] (3) The Division of Parks and Recreation shall permit multiple use of state parks and~~
 51 ~~property controlled by it for ~~[such]~~ purposes such as grazing, ~~[fish]~~ fishing and ~~[game]~~ hunting,~~
 52 ~~mining, and the development and utilization of water and other natural resources~~[-, and other uses,~~~~
 53 ~~subject to any reasonable rules and regulations the board may make within the general policies of~~
 54 ~~the Department of Natural Resources to ensure the accomplishment of the objectives and purposes~~
 55 ~~of this act].~~

56 (4) (a) The division may acquire real and personal property in the name of the state by all
 57 legal and proper means, including purchase, gift, devise, eminent domain, lease, exchange, or
 58 otherwise, subject to the approval of the executive director and the governor.

59 **(b) As used in this section, "real property" includes land under water, upland, and all other**
60 **property commonly or legally defined as real property.**

61 **(c) In acquiring any real or personal property, the credit of the state may not be pledged**
62 **without the consent of the legislature.**

63 ~~[(6)]~~ **(5) (a)** Before acquiring any real property, the division shall notify the county
64 legislative body of the county where the property is situated of its intention to acquire the property.

65 **(b)** If the county legislative body requests a hearing within ten days of receipt of the notice,
66 the board shall hold a public hearing in the county concerning the matter.

67 ~~[(7)]~~ **(6)** Acceptance of gifts or devises of land or other property shall be ~~[in]~~ **at** the
68 discretion of the division, subject to the approval of the executive director of **the Department of**
69 **Natural Resources and the governor.**

70 ~~[(8)-(a)]~~ **(7)** Acquisition of property by eminent domain shall be in the manner authorized
71 by Title 78, Chapter 34.

72 ~~[(b)]~~ **(8) (a)** The Division of Parks and Recreation may make charges for special services
73 and use of facilities, the income from which shall be available for park and recreation purposes.

74 ~~[(c)]~~ **(b)** The division may conduct and operate those services necessary for the comfort
75 and convenience of the public.

76 ~~[(d)]~~ **(c)** The board shall adopt appropriate rules governing the collection of charges under
77 this Subsection **(8)**.

78 **(9)** The director of the division shall establish procedures for the issuance of permits
79 without charge to citizens of ~~[this]~~ **the** state 62 years or older which shall be nontransferable, and
80 shall entitle the permittee and any person accompanying the permittee in a single, private,
81 noncommercial vehicle to general admission without charge to any state park.

82 **(10) (a)** The division may lease or rent concessions of all lawful kinds and nature in state
83 parks and property to persons, partnerships, and corporations for a valuable consideration upon the
84 recommendation of the board ~~[by utilizing bid procedures established by the Department of~~
85 ~~Finance]~~.

86 **(b) The division shall comply with Title 63, Chapter 56, Utah Procurement Code, in**
87 **selecting concessionaires.**

88 **(11)** The division shall proceed without delay to negotiate with the federal government
89 concerning the Weber Basin and other recreation and reclamation projects.

Legislative Review Note
as of 12-29-98 4:15 PM

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

Office of Legislative Research and General Counsel