

1 **TRESPASSING ON STATE PARK LANDS**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Sheryl L. Allen**

6 **LONG TITLE**

7 **General Description:**

8 This bill establishes penalties for trespassing on state park land and allows the division
9 to sue for treble damages in a civil law suit to be deposited in the State Park Fees
10 Restricted Account.

11 **Highlighted Provisions:**

12 This bill:
13 ▶ establishes penalties and civil damages for trespass on state park lands;
14 ▶ establishes penalties and civil damages for other activities on state park lands such
15 as using certain resources, grazing, or occupying land; and
16 ▶ allows the Division of Parks and Recreation to sue for treble damages in a civil
17 lawsuit, to be deposited in the State Park Fees Restricted Account.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 This bill takes effect on July 1, 2004.

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **63-11-66**, as enacted by Chapter 336, Laws of Utah 2003

25 ENACTS:

26 **76-6-206.2**, Utah Code Annotated 1953



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

29 Section 1. Section **63-11-66** is amended to read:

30 **63-11-66. State Park Fees Restricted Account.**

31 (1) There is created within the General Fund a restricted account known as the State
32 Park Fees Restricted Account.

33 (2) (a) Except as provided in Subsection (2)(b), the account shall consist of revenue
34 from:

35 (i) all charges allowed under Subsection 63-11-17(8); [~~and~~]

36 (ii) proceeds from the sale or disposal of buffalo under Subsection 63-11-19.2(2)(b)[:];

37 and

38 (iii) civil damages collected under Section 76-6-206.2.

39 (b) The account shall not include revenue the division receives under Sections
40 63-11-19.5, 63-11-19.6, and Subsection 63-11-19.2(2)(a).

41 (3) The division shall use funds in this account for the purposes described in Section
42 63-11-17.

43 Section 2. Section **76-6-206.2** is enacted to read:

44 **76-6-206.2. Criminal trespass on state park lands -- Penalties.**

45 (1) For purposes of this section:

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

48 (b) "Criminal trespass" means the elements of the crime of criminal trespass, as set
49 forth in Section 76-6-206.

50 (c) "Division" means the Division of Parks and Recreation, as referred to in Section
51 63-11-3.1.

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

53 (2) A person is guilty of criminal trespass on state park lands and is liable for the civil
54 damages prescribed in Subsection (5) if, under circumstances not amounting to a greater
55 offense, and without authorization, the person:

56 (a) enters onto or remains on state park lands and uses, occupies, or constructs
57 improvements or structures on state park lands;

58 (b) uses or occupies state park lands for more than 30 days after the cancellation or

59 expiration of authorization;

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

61 (d) intentionally or knowingly grazes livestock on state park lands, except as provided
62 in Section 72-3-112;

63 (e) uses or occupies state park lands in violation of division rules; or

64 (f) remains, after being ordered to leave by someone with actual or apparent authority
65 to act for the division, or by a law enforcement officer.

66 (3) A person is not guilty of criminal trespass if that person enters onto state park
67 lands:

68 (a) without first paying the required fee; and

69 (b) for the sole purpose of pursuing recreational activity.

70 (4) A violation of Subsection (2) is a class B misdemeanor.

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

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

75 (b) the water, mineral, vegetation, improvement, or structure on state park lands that is
76 removed, destroyed, used, or consumed without authorization;

77 (c) the historical, prehistorical, archaeological, or paleontological resource on state
78 park lands that is removed, destroyed, used, or consumed without authorization; or

79 (d) the consideration which would have been charged by the division for unauthorized
80 use of the land and resources during the period of trespass.

81 (6) Civil damages under Subsection (5) may be collected in a separate action by the
82 division, and shall be deposited in the State Parks Fees Restricted Account as established in
83 Section 63-11-66.

84 **Section 3. Effective date.**

85 This bill takes effect on July 1, 2004.

Legislative Review Note

as of 2-3-04 11:13 AM

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

Office of Legislative Research and General Counsel

State Impact

This bill may increase revenues to the General Fund Restricted - State Parks Fees Account if the Division of Parks and Recreation takes and wins civil actions against criminal trespassers. However, the number of actions and the amount of damages are impossible to predict.

Individual and Business Impact

Individuals who are guilty of criminal trespass on state park lands will face a class B misdemeanor charge and will be liable for civil damages.

Office of the Legislative Fiscal Analyst