

FIRE LIABILITY MODIFICATIONS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Margaret Dayton

House Sponsor: Michael E. Noel

LONG TITLE

General Description:

This bill amends provisions relating to liability for a fire.

Highlighted Provisions:

This bill:

- ▶ clarifies a provision relating to a fire caused by a railroad;
- ▶ defines terms; and
- ▶ establishes evidence standards and penalties for an abandoned fire.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

56-1-15, as last amended by Laws of Utah 2007, Chapter 136

76-6-101, as last amended by Laws of Utah 1995, Chapter 291

76-6-104.5, as enacted by Laws of Utah 1998, Chapter 71

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

Section 1. Section **56-1-15** is amended to read:

56-1-15. Fire caused by railroad operations.

(1) As used in this section:

(a) "Railroad operation" means an operation conducted:

30 (i) by a railroad:

31 (A) owner;

32 (B) operator;

33 (C) contractor; or

34 (D) lessee; and

35 (ii) on a rail line.

36 (b) "Railroad operation" includes an operation of a train, a construction operation, or a
37 maintenance operation.

38 (2) In [any] an action for damages that result from a fire caused by [~~sparks emitted~~
39 ~~from locomotive engines on a rail line~~] a railroad operation, proof that the fire occurred and
40 was caused by [~~sparks emitted from a locomotive engine operated by the railroad~~] a railroad
41 operation is prima facie evidence of negligence on the part of the [~~railroad~~] person who
42 conducted the railroad operation.

43 Section 2. Section **76-6-101** is amended to read:

44 **76-6-101. Definitions.**

45 For purposes of this chapter:

46 (1) "Property" means any form of real property or tangible personal property which is
47 capable of being damaged or destroyed and includes a habitable structure.

48 (2) "Habitable structure" means any building, vehicle, trailer, railway car, aircraft, or
49 watercraft used for lodging or assembling persons or conducting business whether a person is
50 actually present or not.

51 (3) "Property" is that of another, if anyone other than the actor has a possessory or
52 proprietary interest in any portion thereof.

53 (4) "Value" means:

54 (a) The market value of the property, if totally destroyed, at the time and place of the
55 offense, or where cost of replacement exceeds the market value; or

56 (b) Where the market value cannot be ascertained, the cost of repairing or replacing
57 the property within a reasonable time following the offense.

58 (5) If the property damaged has a value that cannot be ascertained by the criteria set
59 forth in Subsections (4)(a) and (b) [~~above~~], the property shall be [~~deemed~~] considered to have
60 a value less than \$300.

61 (6) "Fire" means a flame, heat source capable of combustion, or material capable of
62 combustion that is caused, set, or maintained by a person for any purpose.

63 Section 3. Section **76-6-104.5** is amended to read:

64 **76-6-104.5. Abandoned fire -- Penalties.**

65 (1) A person is guilty of abandoning a fire if, under circumstances not amounting to
66 the offense of arson, aggravated arson, or causing a catastrophe under Title 76, Chapter 6, Part
67 1, [~~Offenses Against Property, he~~] Property Destruction, the person leaves a fire:

68 (a) without first completely extinguishing it; and

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

70 (2) A person does not commit a violation of Subsection (1) [~~or (2)~~] if [~~he~~] the person
71 leaves a fire to report an uncontrolled fire.

72 (3) A violation of Subsection (1):

73 (a) is a class C misdemeanor if [~~the~~] there is no property damage [~~is or exceeds \$150~~
74 ~~but is less than \$300 in value~~];

75 (b) is a class B misdemeanor if property damage is [~~or exceeds \$300 but is~~] less than
76 \$1,000 in value; and

77 (c) is a class A misdemeanor if property damage is or exceeds \$1,000 in value.

78 (4) If a violation of Subsection [~~(3)~~] (1) involves a wildland fire, the violator is also
79 liable for suppression costs under Section 65A-3-4.

80 (5) A fire spreading or reigniting is prima facie evidence that the person did not
81 completely extinguish the fire as required by Subsection (1)(a).