

Senator Margaret Dayton proposes the following substitute bill:

FIRE LIABILITY MODIFICATIONS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Margaret Dayton

House Sponsor: _____

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:



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

27 **56-1-15. Fire caused by railroad operations.**

28 In ~~[any]~~ an action for damages that result from a fire caused by ~~[sparks emitted from~~
29 ~~locomotive engines on a rail line, proof that the fire occurred and was caused by sparks emitted~~
30 ~~from a locomotive engine operated by the railroad is]~~ a railroad owner, operator, or lessee
31 within a railroad right-of-way, the following is prima facie evidence of negligence on the part
32 of the railroad[;] owner, operator or lessee:

33 (1) proof that the fire occurred; and

34 (2) proof that the fire was caused by:

35 (a) material emitted from a train; or

36 (b) an operation conducted by the railroad owner, operator, or lessee.

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

38 **76-6-101. Definitions.**

39 For purposes of this chapter:

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

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

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

47 (4) "Value" means:

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

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

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

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

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

58 **76-6-104.5. Abandoned fire -- Penalties.**

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

62 (a) without first completely extinguishing it; and

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

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

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

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

69 (b) is a class B misdemeanor if property damage is ~~[or exceeds \$300 but is]~~ less than
70 \$1,000 in value; and

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

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

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