

**Senator Margaret Dayton** proposes the following substitute bill:

**FIRE LIABILITY MODIFICATIONS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Margaret Dayton**

House Sponsor: Michael E. Noel

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**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

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*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:

(i) by a railroad:

(A) owner;

(B) operator;

(C) contractor; or

(D) lessee; and

(ii) on a rail line.

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

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

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

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

For purposes of this chapter:

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

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

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

(4) "Value" means:

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

(b) Where the market value cannot be ascertained, the cost of repairing or replacing the

property within a reasonable time following the offense.

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

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

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

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

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

(a) without first completely extinguishing it; and

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

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

(3) A violation of Subsection (1):

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

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

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

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

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

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**S.B. 80 4th Sub. (Pumpkin) - Fire Liability Modifications**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill will impact parties associated with fires caused by railroad activities.

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