

LIMITATION OF ACTIONS AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael E. Noel

Senate Sponsor: Scott K. Jenkins

LONG TITLE

General Description:

This bill limits the liability of persons or businesses for damage or injury caused by greenhouse gas emissions.

Highlighted Provisions:

This bill:

- ▶ limits the liability of a person or business for damage or injury caused by greenhouse gas emissions, unless the emissions violated:
 - a statutory limitation; or
 - a valid operating, air, or other permit; and
- ▶ requires that the party bringing an action prove ~~that~~ **irrefutable;** ~~clearly~~ **by clear and convincing evidence that** unavoidable, and identifiable damage has or will result from the violation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-4-515, Utah Code Annotated 1953

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



28 Section 1. Section 78B-4-515 is enacted to read:

29 **78B-4-515. Limitation on liability for greenhouse gases.**

30 (1) "Greenhouse gas" means water vapor, carbon dioxide, methane, nitrous oxide,
31 ozone, and chlorofluorocarbons.

32 (2) A person residing or doing business in this state may not be held liable for damage
33 or injury to another arising out of any actual or potential effect on climate caused by
34 contributions to emissions of greenhouse gases unless it can be proved by clear and convincing
35 evidence that the person has:

36 (a) violated an enforceable statutory limitation or restriction against emissions of a
37 specific greenhouse gas originating within this state; or

38 (b) violated the express terms of a valid, enforceable operating, air, or other permit
39 issued by a state or federal regulatory agency that has jurisdiction over the greenhouse gas
40 emissions of the person or business.

41 (3) The person bringing the action shall:

42 (a) specify each greenhouse gas emitted by the defendant which is asserted to give rise
43 to the cause of action; and

44 (b) show ~~that~~ ~~irrefutable,~~ ~~clearly~~ ~~by clear and~~
44a2 convincing evidence that ~~unavoidable,~~ and identifiable
44a1 damage or
44a injury has or will
45 result as a direct cause of the defendant's violation of statutory and permitting limits.

Legislative Review Note
as of 2-19-10 4:46 PM

Office of Legislative Research and General Counsel

H.B. 395 - Limitation of Actions Amendments

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill will impact parties involved in litigation as a result of greenhouse gas emissions.
