

1                                   **LIMITATION OF ACTIONS AMENDMENTS**

2   2010 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Michael E. Noel**

5                                   Senate Sponsor: Scott K. Jenkins

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7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12           This bill:

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

19 **Monies Appropriated in this Bill:**

20           None

21 **Other Special Clauses:**

22           None

23 **Utah Code Sections Affected:**

24 ENACTS:

25           **78B-4-515**, Utah Code Annotated 1953

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27 *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  
35 convincing 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 by clear and convincing evidence that unavoidable, and identifiable damage  
45 or injury has or will result as a direct cause of the defendant's violation of statutory and  
46 permitting limits.