

**LIMITATION OF ACTIONS AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael E. Noel**

Senate Sponsor: Scott K. Jenkins

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**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, 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

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*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, unavoidable, and identifiable damage or injury has or will  
45 result as a direct cause of the defendant's violation of statutory and permitting limits.

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

**Office of Legislative Research and General Counsel**

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**H.B. 395 - Limitation of Actions Amendments**

**Fiscal Note**

2010 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 involved in litigation as a result of greenhouse gas emissions.

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