

1 **WILDLAND FIRE AMENDMENTS**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Margaret Dayton**

5 House Sponsor: Michael E. Noel

6

LONG TITLE

7 **General Description:**

8 This bill makes a person liable for the cost of suppressing a wildland fire that is
9 negligently, recklessly, or intentionally caused or spread by that person.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ makes a person liable for the cost of suppressing a wildland fire that is negligently,
14 recklessly, or intentionally caused or spread by that person;
- 15 ▶ allows a person who incurs costs to suppress a wildland fire to bring an action to
16 recover those costs; and
- 17 ▶ makes technical changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **65A-1-1**, as last amended by Laws of Utah 2009, Chapter 344

25 **65A-3-2**, as enacted by Laws of Utah 1988, Chapter 121

26 **65A-3-3**, as last amended by Laws of Utah 1998, Chapter 282



28 REPEALS AND REENACTS:

29 **65A-3-4**, as enacted by Laws of Utah 1988, Chapter 121



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

32 Section 1. Section **65A-1-1** is amended to read:

33 **TITLE 65A. FORESTRY, FIRE, AND STATE LANDS**
34 **CHAPTER 3. ILLEGAL ACTIVITIES ON STATE LANDS**
35 **AND WILDLAND FIRE LIABILITY**

36 **65A-1-1. Definitions.**

37 As used in this title:

38 (1) "Advisory council" or "council" means the Forestry, Fire, and State Lands Advisory
39 Council.

40 (2) "Division" means the Division of Forestry, Fire, and State Lands.

41 (3) "Multiple use" means the management of various surface and subsurface resources
42 in a manner that will best meet the present and future needs of the people of this state.

43 (4) "Public trust assets" means those lands and resources, including sovereign lands,
44 administered by the division.

45 (5) "Sovereign lands" means those lands lying below the ordinary high water mark of
46 navigable bodies of water at the date of statehood and owned by the state by virtue of its
47 sovereignty.

48 (6) "State lands" means all lands administered by the division.

49 (7) "Sustained yield" means the achievement and maintenance of high level annual or
50 periodic output of the various renewable resources of land without impairment of the
51 productivity of the land.

52 (8) "Wildland" means an area where:

53 (a) development is essentially non-existent, except for roads, railroads, powerlines, or
54 similar transportation facilities; and

55 (b) structures, if any, are widely scattered.

56 (9) "Wildland fire" means a fire that consumes:

57 (a) wildland; or

58 (b) wildland-urban interface, as defined in Section 65A-8a-102.

59 Section 2. Section **65A-3-2** is amended to read:

60 **65A-3-2. Wildland fire prevention -- Prohibited acts.**

61 (1) A person is guilty of a class B misdemeanor who:

62 (a) throws or places any lighted cigarette, cigar, firecracker, ashes, or other flaming or
63 glowing substance [~~which~~] that may cause a fire on a highway or a wildland fire;

64 (b) obstructs the state forester, [~~or any of his deputies~~] an employee of the division, or
65 an agent of the division, in the performance of controlling a fire;

66 (c) refuses, on proper request of the state forester [~~or any of his deputies~~], an employee
67 of the division, or an agent of the division, to assist in the controlling of a fire, without good
68 and sufficient reason; or

69 (d) fires any tracer or incendiary ammunition anywhere except within the confines of
70 established military reservations.

71 (2) Fines assessed under this section are deposited in the General Fund.

72 Section 3. Section **65A-3-3** is amended to read:

73 **65A-3-3. Enforcement of laws -- County attorney or district attorney to**
74 **prosecute.**

75 (1) It is the duty of the division, county sheriffs, their deputies, peace officers, and
76 other law enforcement officers within their jurisdiction to enforce the provisions of this chapter
77 and to investigate and gather evidence that may indicate a violation under this chapter.

78 (2) The county attorney or district attorney as appropriate under Sections 17-18-1,
79 17-18-1.5, and 17-18-1.7, shall:

80 (a) prosecute any criminal violations of this chapter; and [~~shall~~]

81 (b) initiate a civil action to recover suppression costs incurred by the county or state for
82 suppression of fire on private land.

83 Section 4. Section **65A-3-4** is repealed and reenacted to read:

84 **65A-3-4. Liability for causing wildland fires.**

85 (1) A person who negligently, recklessly, or intentionally causes or spreads a wildland
86 fire shall be liable for the cost of suppressing that wildland fire, regardless of whether the fire
87 begins on:

88 (a) private land;

89 (b) state land;

90 (c) federal land; or

91 (d) tribal land.

92 (2) The conduct described in Subsection (1) includes any negligent, reckless, or
93 intentional conduct, and is not limited to conduct described in Section 65A-3-2.

94 (3) A person who incurs costs to suppress a wildland fire may bring an action under
95 this section to recover those costs.

96 (4) A person who suffers damage from a wildland fire may pursue all other legal
97 remedies in addition to seeking damages under Subsection (3).

Legislative Review Note
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Office of Legislative Research and General Counsel