

Representative Dixon M. Pitcher proposes the following substitute bill:

PROTECTION OF STATE PARK RESOURCES

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Dixon M. Pitcher

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses crimes committed on state park lands.

Highlighted Provisions:

This bill:

- ▶ defines terms;
 - ▶ prohibits a person from exercising unauthorized control over, damaging, defacing, excavating, altering, destroying, or removing any:
 - geological area, site, feature, or formation located on property administered, managed, or owned by the Division of State Parks and Recreation; or
 - property, structure, or resource belonging to or located on property administered, managed, or owned by the Division of State Parks and Recreation;
 - ▶ provides a method of calculating the value of a division resource;
 - ▶ authorizes the division to recover attorney fees, costs, and reimbursement for staff time spent on an enforcement proceeding from a person who violates the chapter;
- and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **76-6-206.2**, as last amended by Laws of Utah 2009, Chapter 344



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

32 Section 1. Section **76-6-206.2** is amended to read:

33 **76-6-206.2. Criminal trespass on state park lands -- Penalties.**

34 (1) For purposes of this section:

35 (a) "Authorization" means specific written permission by, or contractual agreement
36 with, the Division of Parks and Recreation.

37 ~~[(b) "Criminal trespass" means the elements of the crime of criminal trespass, as set~~
38 ~~forth in Section **76-6-206**.]~~

39 ~~[(c)]~~ (b) "Division" means the Division of Parks and Recreation, created in Section
40 **79-4-201**.

41 (c) (i) "Division resource" means a:

42 (A) geological area, site, feature, or formation that is located on property administered,
43 managed, or owned by the division; or

44 (B) property, structure, or resource administered, managed, or owned by the division or
45 located on property administered, managed, or owned by the division.

46 (ii) "Division resource" does not mean a geological area, site, feature, formation,
47 property, structure, or resource with an estimated value under Subsection (3)(d) of \$100 or less.

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

49 (2) A person is guilty of ~~[criminal trespass]~~ a crime on state park lands and is liable for
50 the civil damages prescribed in Subsection (5) if, under circumstances not amounting to a
51 greater offense, and without authorization, the person:

52 (a) constructs improvements or structures on state park lands;

53 (b) uses or occupies state park lands for more than 30 days after the cancellation or
54 expiration of authorization;

55 (c) knowingly or intentionally uses state park lands for commercial gain;

57 (d) intentionally or knowingly grazes livestock on state park lands, except as provided
58 in Section [72-3-112](#); [or]

59 (e) remains, after being ordered to leave by someone with actual authority to act for the
60 division, or by a law enforcement officer[-];

61 [~~(3) A person is not guilty of criminal trespass if that person enters onto state park
62 lands;~~]

63 [~~(a) without first paying the required fee; and]~~

64 [~~(b) for the sole purpose of pursuing recreational activity;~~]

65 [~~(4) A violation of Subsection (2) is a class B misdemeanor.~~]

66 (f) intentionally commits an act that causes damage, defacement, excavation,
67 permanent alteration, or destruction of a division resource; or

68 (g) removes or exercises control over any division resource with the intent to
69 temporarily or permanently deprive the division.

70 (3) (a) A violation of Subsections (2)(a) through (e) is a class B misdemeanor.

71 (b) A violation of Subsections (2)(f) or (g) is a:

72 (i) class A misdemeanor; or

73 (ii) third degree felony, if the damage to the division is calculated under
74 Subsection(3)(d) is \$1,500 or greater.

75 (c) An person who is convicted of a subsequent violation of Subsection (2) shall be
76 punishable for:

77 (i) a class A misdemeanor for a subsequent violation of Subsections (2)(a) through (e);
78 and

79 (ii) one degree higher than provided in Subsection (3)(b) for subsequent violation of
80 Subsections (2)(f) or (g).

81 (d) The amount of damage to the division shall be calculated as the greater of the:

82 (i) value of the division resource involved in the violation; or

83 (ii) estimated cost to restore or repair the division resource involved in the violation,
84 including:

85 (A) division staff time; and

86 (B) the cost of any expert evaluation of the possibility of restoring or repairing the
87 division resource.

88 (4) Any division resource discovered, collected, excavated, or offered for sale or
89 exchange as a result of a violation of Subsection (2) shall be surrendered to the division.

90 (5) In addition to restitution, as provided in Section 76-3-201, a person who commits
91 any act described in Subsection (2) may also be liable for civil damages in the amount of three
92 times the value of:

93 (a) damages resulting from a violation of Subsection (2);

94 (b) the [~~water, mineral, vegetation, improvement, or structure on state park lands~~]
95 division resource that is removed, damaged, altered, defaced, excavated, destroyed, used, or
96 consumed without authorization; or

97 [~~(c) the historical, prehistorical, archaeological, or palaeontological resource on state~~
98 ~~park lands that is removed, destroyed, used, or consumed without authorization; or]~~

99 [~~(d)~~] (c) the consideration which would have been charged by the division for
100 unauthorized use of the land and resources during the period of trespass.

101 (6) (a) In addition to the damages recoverable under Subsection (5), a person who
102 violates Subsection (2) is also liable to the division for any costs incurred by the division in any
103 enforcement proceeding, including attorney fees, costs, and reimbursement for time spent by a
104 division employee on the enforcement proceeding.

105 (b) The division shall have the burden of proof by a preponderance of the evidence in a
106 civil or administrative proceeding.

107 [~~(6)~~] (7) Civil damages under [~~Subsection (5)~~] Subsections (5) and (6) may be
108 collected in a separate action by the division, and shall be deposited in the State Parks Fees
109 Restricted Account as established in Section 79-4-402.