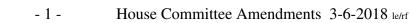
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| 1   | WILDLAND FIRE LIABILITY AMENDMENTS  |
|-----|---|
| 2   | 2018 GENERAL SESSION  |
| 3   | STATE OF UTAH   |
| 4   | Chief Sponsor: Michael K. McKell  |
| 5   | Senate Sponsor:   |
| 6   |   |
| 7   | LONG TITLE  |
| 8   | General Description:  |
| 9   | This bill addresses liability following a wildland fire.  |
| 10  | Highlighted Provisions:   |
| 11  | This bill:  |
| 12  | <ul> <li>states that a person who negligently, recklessly, or intentionally causes a wildland</li> </ul>                            |
| 13  | fire shall be liable for damages and the cost of suppressing the fire;  |
| 14  | ► states that a person that $\hat{H} \rightarrow \underline{negligently, recklessly, or intentionally} \leftarrow \hat{H}$ causes a |
| 14a | wildland fire through the operation, maintenance,   |
| 15  | or use of any instrumentality of the person's shall be liable for all damages resulting   |
| 16  | from the wildland fire;   |
| 17  | • states that a $\hat{H} \rightarrow person \text{ or } a \leftarrow \hat{H}$ property owner who suffers damage from a wildland     |
| 17a | fire may bring an   |
| 18  | action to recover damages, costs, and reasonable attorney fees;   |
| 19  | <ul> <li>provides a balancing test for a court evaluating a property owner's request to restore</li> </ul>                          |
| 20  | property following a wildland fire; and   |
| 21  | <ul> <li>makes technical changes.</li> </ul>  |
| 22  | Money Appropriated in this Bill:  |
| 23  | None  |
| 24  | Other Special Clauses:  |
| 25  | None  |
| 26  | Utah Code Sections Affected:  |
| 27  | AMENDS:   |
|     |   |



## H.B. 466

| 28  | 65A-3-4, as repealed and reenacted by Laws of Utah 2012, Chapter 361  |
|-----|---|
| 29  | 76-6-104.5, as last amended by Laws of Utah 2009, Chapter 320   |
| 30  |   |
| 31  | Be it enacted by the Legislature of the state of Utah:  |
| 32  | Section 1. Section <b>65A-3-4</b> is amended to read:   |
| 33  | 65A-3-4. Liability for causing wildland fires.  |
| 34  | (1) A person who negligently, recklessly, or intentionally causes [or spreads] a  |
| 35  | wildland fire shall be liable for damages resulting from the wildland fire, including the cost of   |
| 36  | suppressing that wildland fire, regardless of whether the fire begins on:   |
| 37  | (a) private land;   |
| 38  | (b) land owned by the state;  |
| 39  | (c) federal land; or  |
| 40  | (d) tribal land.  |
| 41  | (2) (a) The conduct described in Subsection (1) includes any negligent, reckless, or  |
| 42  | intentional conduct, and is not limited to conduct described in Section 65A-3-2.  |
| 43  | (b) $\hat{H} \rightarrow [$ <u>Notwithstanding Subsection (1) or (2)(a) or any provision of Title 63G, Chapter 7,</u>                                   |
| 44  | <u>Governmental Immunity Act of Utah</u> , $\leftarrow \hat{H}$ when a person $\hat{H} \rightarrow \underline{negligently, recklessly, or}$             |
| 44a | intentionally $\leftarrow \hat{\mathbf{H}}$ causes a wildland fire through the  |
| 45  | operation, maintenance, or use of any instrumentality of the person, the person shall be liable   |
| 46  | for all damages resulting from the wildland fire, including the cost of suppression.  |
| 47  | (3) (a) [A person who incurs] A $\hat{\mathbf{H}} \rightarrow person \text{ or } \mathbf{a} \leftarrow \hat{\mathbf{H}}$ property owner who suffers     |
| 47a | damage from a wildland  |
| 48  | <u>fire, including</u> $\hat{H} \rightarrow \underline{incurring} \leftarrow \hat{H}$ costs to suppress a wildland fire, may bring an action under this |
| 48a | section to  |
| 49  | recover [those costs] damages resulting from the fire and attorney fees.  |
| 50  | (b) Damages resulting from fire, as described in Subsection (3)(a), include the   |
| 51  | reasonable costs to restore the property, even if the costs exceed the diminution in value of the   |
| 52  | property, so long as the property owner has a genuine intent to restore the actual damage   |
| 53  | caused by the fire.   |
| 54  | (c) To determine whether a property owner has a genuine intent to restore the actual  |
| 55  | damage, as described in Subsection (3)(b), the court shall weigh the following factors:   |
| 56  | (i) how long the property owner has owned the property;   |
| 57  | (ii) how long the property has been owned by the property owner's family;   |
| 58  | (iii) the use of the property;  |