

WILDLAND FIRE LIABILITY AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses liability following a wildland fire.

Highlighted Provisions:

This bill:

▶ states that a person who negligently, recklessly, or intentionally causes a wildland fire shall be liable for damages and the cost of suppressing the fire;

▶ states that a person that ~~H~~→ **negligently, recklessly, or intentionally** ←~~H~~ causes a wildland fire through the operation, maintenance, or use of any instrumentality of the person's shall be liable for all damages resulting from the wildland fire;

▶ states that a ~~H~~→ **person or a** ←~~H~~ property owner who suffers damage from a wildland fire may bring an action to recover damages, costs, and reasonable attorney fees;

▶ provides a balancing test for a court evaluating a property owner's request to restore property following a wildland fire; and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 65A-3-4, as repealed and reenacted by Laws of Utah 2012, Chapter 361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 **65A-3-4** 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) ~~Ĥ→ [Notwithstanding Subsection (1) or (2)(a) or any provision of Title 63G, Chapter 7,~~
 44 ~~Governmental Immunity Act of Utah,]~~ ~~←Ĥ~~ when a person ~~Ĥ→~~ **negligently, recklessly, or**
 44a **intentionally** ~~←Ĥ~~ 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 ~~Ĥ→~~ person or a ~~←Ĥ~~ property owner who suffers
 47a damage from a wildland
 48 fire, including ~~Ĥ→~~ incurring ~~←Ĥ~~ 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;