

FIREWORKS RESTRICTIONS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Jani Iwamoto

LONG TITLE

General Description:

This bill amends provisions related to the permissible discharge of fireworks.

Highlighted Provisions:

This bill:

- ▶ amends and clarifies the dates on which a person may legally discharge fireworks;
- ▶ increases the criminal fine for discharging fireworks outside of permitted dates and times;
- ▶ clarifies when a municipality may prohibit a person from discharging fireworks;
- ▶ increases the areas within which a municipality or the state forester may prohibit the discharge of fireworks;
- ▶ in certain situations, requires local governments and the state forester to create and provide maps identifying areas in which fireworks are prohibited due to hazardous environmental conditions;
- ▶ requires retailers that sell fireworks to display:
 - maps a county provides indicating areas within the county in which fireworks are prohibited due to hazardous environmental conditions; and
 - signs regarding permissible discharge dates and times and certain criminal penalties;
- ▶ prohibits the state forester from limiting or restricting the discharge of fireworks within municipal boundaries;
- ▶ imposes civil liability when certain fireworks discharge causes a fire; and
- ▶ makes technical and conforming changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **10-8-47**, as last amended by Laws of Utah 2012, Chapter 140

37 **11-3-8**, as last amended by Laws of Utah 1993, Chapter 234

38 **15A-5-202.5**, as last amended by Laws of Utah 2016, Chapter 216

39 **53-7-221**, as enacted by Laws of Utah 1993, Chapter 234

40 **53-7-225**, as last amended by Laws of Utah 2016, Chapter 216

41 **65A-8-212**, as last amended by Laws of Utah 2013, Chapter 307

42 ENACTS:

43 **53-7-225.1**, Utah Code Annotated 1953



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

46 Section 1. Section **10-8-47** is amended to read:

47 **10-8-47. Intoxication -- Fights -- Disorderly conduct -- Assault and battery -- Petit**
48 **larceny -- Riots and disorderly assemblies -- Firearms and fireworks -- False pretenses**
49 **and embezzlement -- Sale of liquor, narcotics, or tobacco to minors -- Possession of**
50 **controlled substances -- Treatment of alcoholics and narcotics or drug addicts.**

51 (1) A municipal legislative body may:

52 (a) prevent intoxication, fighting, quarreling, dog fights, cockfights, prize fights,
53 bullfights, and all disorderly conduct and provide against and punish the offenses of assault and
54 battery and petit larceny;

55 (b) ~~[the municipal legislative body may]~~ restrain riots, routs, noises, disturbances, or
56 disorderly assemblies in any street, house, or place in the city;

57 (c) ~~[the municipal legislative body may]~~ regulate and prevent the discharge of firearms,

58 rockets, powder, fireworks in accordance with Section 53-7-225, or any other dangerous or
59 combustible material;

60 (d) ~~[the municipal legislative body may]~~ provide against and prevent the offense of
61 obtaining money or property under false pretenses and the offense of embezzling money or
62 property in all cases where the money or property embezzled or obtained under false pretenses
63 does not exceed in value the sum of \$500; and

64 (e) ~~[may]~~ prohibit the sale, giving away, or furnishing of narcotics, alcoholic beverages
65 to a person younger than 21 years of age, or tobacco to any person younger than 19 years of
66 age~~[-cities may,]~~.

67 (2) A city may:

68 (a) by ordinance, prohibit the possession of controlled substances as defined in the
69 Utah Controlled Substances Act or any other endangering or impairing substance, provided the
70 conduct is not a class A misdemeanor or felony~~[-];~~ and

71 (b) provide for treatment of alcoholics, narcotic addicts, and other persons who are
72 addicted to the use of drugs or intoxicants such that a person substantially lacks the capacity to
73 control the person's use of the drugs or intoxicants, and judicial supervision may be imposed as
74 a means of effecting their rehabilitation.

75 Section 2. Section **11-3-8** is amended to read:

76 **11-3-8. Conflicting local ordinances prohibited.**

77 A county, city, ~~[or]~~ town, or metro township may not adopt an ordinance or regulation
78 in conflict with Sections 53-7-220 through 53-7-225.

79 Section 3. Section **15A-5-202.5** is amended to read:

80 **15A-5-202.5. Amendments and additions to Chapters 3 and 4 of IFC.**

81 (1) For IFC, Chapter 3, General Requirements:

82 (a) IFC, Chapter 3, Section 304.1.2, Vegetation, is amended as follows: Delete line six
83 and replace it with: "the Utah Administrative Code, R652-122-200, Minimum Standards for
84 Wildland Fire Ordinance".

85 (b) IFC, Chapter 3, Section 310.8, Hazardous and Environmental Conditions, is deleted

86 and rewritten as follows: "1. When the fire code official determines that existing or historical
87 hazardous environmental conditions necessitate controlled use of any ignition source, including
88 fireworks, lighters, matches, sky lanterns, and smoking materials, any of the following may
89 occur:

90 [†] 1.1. If the existing or historical hazardous environmental conditions exist in a
91 municipality, the legislative body of the municipality may prohibit the ignition or use of an
92 ignition source in:

93 1.1.1. mountainous, brush-covered, [~~or~~] forest-covered, or dry grass-covered areas [~~or~~];

94 1.1.2. within 200 feet of waterways, trails, canyons, washes, ravines, or similar areas;

95 1.1.3. the wildland urban interface area, which means the line, area, or zone where
96 structures or other human development meet or intermingle with undeveloped wildland or land
97 being used for an agricultural purpose[~~;~~]; or

98 1.1.4. a limited area outside the hazardous areas described in this paragraph 1.1 to
99 facilitate a readily identifiable closed area, in accordance with paragraph 2.

100 [2] 1.2. [~~Except as provided in paragraph 3, if the~~] If the existing or historical
101 hazardous environmental conditions exist in an unincorporated area, the state forester may
102 prohibit the ignition or use of an ignition source in all or part of the areas described in
103 paragraph [†] 1.1 that are within the unincorporated area, after consulting with the county fire
104 code official who has jurisdiction over that area.

105 [3] 1.3. If the existing or historical hazardous environmental conditions exist in a metro
106 township created under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and
107 Unincorporated Islands in a County of the First Class[~~;~~] on and after May 12, 2015, the metro
108 township legislative body may prohibit the ignition or use of an ignition source in all or part of
109 the areas described in paragraph [†] 1.1 that are within the township.[~~"]~~

110 2. If a municipal legislative body, the state forester, or a metro township legislative
111 body closes an area to the discharge of fireworks under paragraph 1, the legislative body or
112 state forester shall:

113 2.1. designate the closed area along readily identifiable features like major roadways,

114 waterways, or geographic features;

115 2.2. ensure that the boundary of the designated closed area is as close as is practical to
116 the defined hazardous area, provided that the closed area may include areas outside of the
117 hazardous area to facilitate a readily identifiable line; and

118 2.3. identify the closed area through a written description or map that is readily
119 available to the public.

120 3. A municipal legislative body, the state forester, or a metro township legislative body
121 may close a defined area to the discharge of fireworks due to a historical hazardous
122 environmental condition under paragraph 1 if the legislative body or state forester:

123 3.1. makes a finding that the historical hazardous environmental condition has existed
124 in the defined area before July 1 of at least two of the preceding five years;

125 3.2. produces a map indicating the boundaries, in accordance with paragraph 2, of the
126 defined area described; and

127 3.3. before May 1 of each year the defined area is closed, provides the map described
128 in paragraph 3.2 to the county in which the defined area is located.

129 4. A municipal legislative body, the state forester, or a metro township legislative body
130 may not close an area to the discharge of fireworks due to a historical hazardous environmental
131 condition unless the legislative body or state forester provides a map, in accordance with
132 paragraph 3."

133 (c) IFC, Chapter 3, Section 311.1.1, Abandoned Premises, is amended as follows: On
134 line 10 delete the words "International Property Maintenance Code and the".

135 (d) IFC, Chapter 3, Section 311.5, Placards, is amended as follows: On line three delete
136 the word "shall" and replace it with the word "may".

137 (e) IFC, Chapter 3, Section 315.2.1, Ceiling Clearance, is amended to add the
138 following: "Exception: Where storage is not directly below the sprinkler heads, storage is
139 allowed to be placed to the ceiling on wall-mounted shelves that are protected by fire sprinkler
140 heads in occupancies meeting classification as light or ordinary hazard."

141 (2) IFC, Chapter 4, Emergency Planning and Preparedness:

142 (a) IFC, Chapter 4, Section 403.10.2.1, College and university buildings, is deleted and
143 replaced with the following:

144 "403.10.2.1 College and university buildings and fraternity and sorority houses.

145 (a) College and university buildings, including fraternity and sorority houses, shall
146 prepare an approved fire safety and evacuation plan, in accordance with Section 404.

147 (b) Group R-2 college and university buildings, including fraternity and sorority
148 houses, shall comply with Sections 403.10.2.1.1 and 403.10.2.1.2."

149 (b) IFC, Chapter 4, Section 405.2, Table 405.2, is amended to add the following
150 footnotes:

151 (i) "e. Secondary schools in Group E occupancies shall have an emergency evacuation
152 drill for fire conducted at least every two months, to a total of four emergency evacuation drills
153 during the nine-month school year. The first emergency evacuation drill for fire shall be
154 conducted within 10 school days after the beginning of classes. The third emergency
155 evacuation drill for fire, weather permitting, shall be conducted 10 school days after the
156 beginning of the next calendar year. The second and fourth emergency evacuation drills may
157 be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock
158 down for violence. If inclement weather causes a secondary school to miss the 10-day deadline
159 for the third emergency evacuation drill for fire, the secondary school shall perform the third
160 emergency evacuation drill for fire as soon as practicable after the missed deadline."

161 (ii) "f. In Group E occupancies, excluding secondary schools, if the AHJ approves, the
162 monthly required emergency evacuation drill can be substituted by a security or safety drill to
163 include shelter in place, earthquake drill, or lock down for violence. The routine emergency
164 evacuation drill for fire must be conducted at least every other evacuation drill."

165 (iii) "g. A-3 occupancies in academic buildings of institutions of higher learning are
166 required to have one emergency evacuation drill per year, provided the following conditions are
167 met:

168 (A) The building has a fire alarm system in accordance with Section 907.2.

169 (B) The rooms classified as assembly shall have fire safety floor plans as required in

170 Subsection 404.2.2(4) posted.

171 (C) The building is not classified a high-rise building.

172 (D) The building does not contain hazardous materials over the allowable quantities by
173 code."

174 Section 4. Section 53-7-221 is amended to read:

175 **53-7-221. Exceptions from Utah Fireworks Act.**

176 (1) Sections 53-7-220 through 53-7-225 do not apply to class A, class B, and class C
177 explosives that are not for use in Utah, but are manufactured, stored, warehoused, or in transit
178 for destinations outside of Utah.

179 (2) Sections 53-7-220 through 53-7-225 do not supersede Section 23-13-7, regarding
180 use of fireworks and explosives by the Division of Wildlife Resources and federal game agents.

181 (3) Section 53-7-225 does not supersede Section 65A-8-212 regarding the authority of
182 the state forester to close hazardous areas.

183 Section 5. Section 53-7-225 is amended to read:

184 **53-7-225. Times for sale and discharge of fireworks -- Criminal penalty --**
185 **Permissible closure of certain areas -- Maps and signage.**

186 (1) [~~This~~] Except as provided in Section 53-7-221, this section [supersedes] supersedes
187 any other code provision regarding the sale or discharge of fireworks.

188 (2) A person may sell class C common state approved explosives in the state as
189 follows:

190 (a) beginning on June [~~23~~] 24 and ending on July [~~27~~] 25;

191 (b) beginning on December 29 and ending on December 31; and

192 (c) two days before and on the Chinese New Year's eve.

193 (3) [~~Except as provided in Subsection (5), a county or municipality may not prohibit~~
194 ~~any person from discharging~~] A person may not discharge class C common state approved
195 explosives in the state except as follows:

196 (a) between the hours of 11 a.m. and 11 p.m., except that on July 4 and July 24, the
197 hours are 11 a.m. to midnight:

- 198 (i) beginning on July [~~1~~] 2 and ending on July [~~7~~] 5; and
- 199 (ii) beginning on July [~~21~~] 22 and ending on July [~~27~~] 25;
- 200 (b) (i) beginning at 11 a.m. on December 31 and ending at 1 a.m. on the following day;

201 or

202 (ii) if New Year's eve is on a Sunday and the [~~local governmental jurisdiction~~] county,
 203 municipality, or metro township determines to celebrate New Year's eve on the prior Saturday,
 204 then [~~it is lawful to discharge Class~~] a person may discharge class C common state approved
 205 explosives on that prior Saturday within the county, municipality, or metro township; and

206 (c) beginning at 11 a.m. on the Chinese New Year's eve and ending at 1 a.m. on the
 207 following day.

208 (4) A person [~~who violates the time restrictions stated in Subsection (3)(a), (b), or (c)]~~
 209 is guilty of an infraction[-], punishable by a fine of up to \$1,000, if the person discharges a
 210 class C common state approved explosive:

211 (a) outside the legal discharge dates and times described in Subsection (3); or

212 (b) in an area in which fireworks are prohibited under Subsection 15A-5-202.5(1)(b).

213 (5) (a) Except as provided in Subsection (5)(b) or (c), a county, a municipality, a metro
 214 township, or the state forester may not prohibit a person from discharging class C common
 215 state approved explosives during the permitted periods described in Subsection (3).

216 (b) (i) As used in this Subsection (5)(b), "negligent discharge":

217 (A) means the improper use and discharge of a class C common state approved
 218 explosive; and

219 (B) does not include the date or location of discharge or the type of explosive used.

220 [~~(5)~~] (ii) A [county or] municipality or metro township may prohibit [any person from
 221 discharging];

222 (A) the discharge of class C common state approved explosives[; (a) as provided] in
 223 certain areas with hazardous environmental conditions, in accordance with Subsection

224 15A-5-202.5(1)(b); or

225 [(b) in accordance with a municipal ordinance prohibiting]

226 (B) the negligent discharge of class C common state approved explosives.
227 (iii) A county may prohibit the negligent discharge of class C common state approved
228 explosives.

229 (c) The state forester may prohibit the discharge of class C common state approved
230 explosives as provided in Subsection [15A-5-202.5\(1\)\(b\)](#) or Section [65A-8-212](#).

231 (6) If a municipal legislative body, the state forester, or a metro township legislative
232 body provides a map to a county identifying an area in which the discharge of fireworks is
233 prohibited due to a historical hazardous environmental condition under Subsection
234 [15A-5-202.5\(1\)\(b\)](#), the county shall, before June 1 of that same year:

235 (a) create a county-wide map, based on each map the county has received, indicating
236 each area within the county in which fireworks are prohibited under Subsection
237 [15A-5-202.5\(1\)\(b\)](#);

238 (b) provide the map described in Subsection (6)(a) to:

239 (i) each retailer that sells fireworks within the county; and

240 (ii) the state fire marshal; and

241 (c) publish the map on the county's website.

242 (7) A retailer that sells fireworks shall display:

243 (a) a sign that:

244 (i) is clearly visible to the general public in a prominent location near the point of sale;

245 (ii) indicates the legal discharge dates and times described in Subsection (3); and

246 (iii) indicates the criminal charge and fine associated with discharge:

247 (A) outside the legal dates and times described in Subsection (3); and

248 (B) within an area in which fireworks are prohibited under Subsection

249 [15A-5-202.5\(1\)\(b\)](#); and

250 (b) the map that the county provides, in accordance with Subsection (6)(b).

251 Section 6. Section **53-7-225.1** is enacted to read:

252 **53-7-225.1. Civil liability.**

253 (1) (a) An individual who negligently, recklessly, or intentionally causes or spreads a

254 fire through discharge of a class C explosive is liable for the cost of suppressing that fire and
255 any damages the fire causes.

256 (b) If the individual described in Subsection (1)(a) is a minor, the parent or legal
257 guardian having legal custody of the minor is liable for the costs and damages for which the
258 minor is liable under this section.

259 (c) A court may waive part or all of the parent or guardian's liability for damages under
260 Subsection (1)(b) if the court finds:

261 (i) good cause; and

262 (ii) that the parent or legal guardian:

263 (A) made a reasonable effort to supervise and direct the minor; or

264 (B) in the event the parent or guardian knew in advance of the negligent, reckless, or
265 intentional conduct described in Subsection (1)(a), made a reasonable effort to restrain the
266 minor.

267 (2) (a) The conduct described in Subsection (1) includes any negligent, reckless, or
268 intentional conduct, regardless of whether:

269 (i) the person discharges a class C common state approved explosive:

270 (A) within the permitted time periods described in Subsection [53-7-225\(3\)](#); or

271 (B) in an area where discharge was not prohibited under Subsection [53-7-225\(5\)\(b\)](#) or

272 (c); or

273 (ii) the fire begins on:

274 (A) private land;

275 (B) land owned by the state or a political subdivision of the state;

276 (C) federal land; or

277 (D) tribal land.

278 (b) Discharging a class C explosive in an area in which fireworks are prohibited due to
279 hazardous environmental conditions, in accordance with Subsection [15A-5-202.5\(1\)\(b\)](#),
280 constitutes the negligent, reckless, or intentional conduct described in Subsection (1).

281 (3) A person who incurs costs to suppress a fire described in Subsection (1) may bring

282 an action under this section to recover those costs against an individual described in Subsection
283 (1).

284 (4) A person who suffers damage from a fire described in Subsection (1) may:

285 (a) bring an action under this section for those damages against an individual described
286 in Subsection (1); and

287 (b) pursue all other legal remedies in addition to seeking damages under Subsection
288 (4)(a).

289 Section 7. Section **65A-8-212** is amended to read:

290 **65A-8-212. Power of state forester to close hazardous areas -- Violations of an**
291 **order closing an area.**

292 (1) (a) If the state forester finds conditions in a given area in the state to be extremely
293 hazardous, "extremely hazardous" means categorized as "extreme" under a nationally
294 recognized standard for rating fire danger, he shall close those areas to any forms of use by the
295 public, or to limit that use, except as provided in Subsection (5).

296 (b) The closure shall include, for the period of time the state forester considers
297 necessary, the prohibition of open fires, and may include restrictions and prohibitions on:

- 298 (i) smoking;
- 299 (ii) the use of vehicles or equipment;
- 300 (iii) welding, cutting, or grinding of metals;
- 301 (iv) subject to Subsection (5), fireworks;
- 302 (v) explosives; or
- 303 (vi) the use of firearms for target shooting.

304 (c) Any restriction or closure relating to firearms use:

305 (i) shall be done with support of the duly elected county sheriff of the affected county
306 or counties;

307 (ii) shall undergo a formal review by the State Forester and County Sheriff every 14
308 days; and

309 (iii) may not prohibit a person from legally possessing a firearm or lawfully

310 participating in a hunt.

311 (d) The State Forester and County Sheriff shall:

312 (i) agree to the terms of any restriction or closure relating to firearms use;

313 (ii) reduce the agreement to writing;

314 (iii) sign the agreement indicating approval of its terms and duration; and

315 (iv) complete the steps in Subsections (1)(d)(i) through (d)(iii) at each 14 day review

316 and at termination of the restriction or closure.

317 (2) Nothing in this chapter prohibits any resident within the area from full and free
318 access to his home or property, or any legitimate use by the owner or lessee of the property.

319 (3) The order or proclamation closing or limiting the use in the area shall set forth:

320 (a) the exact area coming under the order;

321 (b) the date when the order becomes effective; and

322 (c) if advisable, the authority from whom permits for entry into the area may be
323 obtained.

324 (4) Any entry into or use of any area in violation of this section is a class B
325 misdemeanor.

326 (5) The state forester may not restrict or prohibit the discharge of fireworks within the
327 municipal boundaries of a city, town, or metro township.