

WATER FACILITIES AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Logan Wilde

Senate Sponsor: Jani Iwamoto

LONG TITLE

General Description:

This bill addresses water facilities.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ outlines prohibited acts related to water facilities;
- ▶ addresses civil actions;
- ▶ creates an exception from liability;
- ▶ addresses obstruction or changes related to water facilities and rights of way; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-1-14, as last amended by Laws of Utah 2005, Chapter 215

73-1-15, as last amended by Laws of Utah 2018, Chapter 349

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



28 Section 1. Section 73-1-14 is amended to read:

29 **73-1-14. Interfering with water facilities or with apportioning official -- Penalty**
30 **and liability.**

31 ~~[(1) Any person, who in any way unlawfully interferes with, injures, destroys or~~
32 ~~removes any dam, head gate, weir, casing, valve, cap or other appliance for the diversion,~~
33 ~~apportionment, measurement or regulation of water, or who interferes with any person~~
34 ~~authorized to apportion water while in the discharge of his duties, is guilty of a crime~~
35 ~~punishable under Section 73-2-27.]~~

36 (1) As used in this section:

37 (a) "Interfere," for purposes of a water facility, means damage to or modification of the
38 water facility that results in actual blockage or diversion of water, stormwater, wastewater, or
39 sewage.

40 (b) "Water facility" means a dam, pipeline, culvert, fire hydrant, flume, conduit, ditch,
41 head gate, canal, reservoir, storage tank, spring box, well, meter, weir, valve, casing, cap, or
42 other facility used for the diversion, transportation, distribution, measurement, collection, or
43 storage of water, stormwater, wastewater, or sewage.

44 (2) A person is guilty of a crime punishable under Section 73-2-27 if the person:

45 (a) maliciously ~~Ĥ→~~ ; ~~←Ĥ~~

45a ~~Ĥ→~~ (i) ~~←Ĥ~~ interferes with ~~Ĥ→~~ [§] a water facility; ~~←Ĥ~~

45b ~~Ĥ→~~ (ii) ~~←Ĥ~~ damages ~~Ĥ→~~ [§] a water facility; ~~←Ĥ~~

45c ~~Ĥ→~~ (iii) ~~←Ĥ~~ destroys ~~Ĥ→~~ [§] a water facility; ~~←Ĥ~~ or

45d ~~Ĥ→~~ (iv) ~~←Ĥ~~ removes a water facility;

46 (b) intentionally or knowingly makes a temporary or permanent connection to a water
47 facility without first obtaining the written consent of the owner of the water facility; or

48 (c) unlawfully interferes with an individual authorized to apportion water while in the
49 discharge of the individual's duties.

50 ~~[(2)]~~ (3) ~~[Any]~~ A person who commits an act defined as a crime under this section is
51 also liable [in a civil action] for damages or other relief [to any] and costs in a civil action
52 brought by a person injured by that act.

53 ~~[(3)]~~ (4) (a) A civil action under this section may be brought independent of a criminal
54 action.

55 (b) Proof of the elements of a civil action under this section need only be made by a
56 preponderance of the evidence.

57 (5) A person who complies with Title 54, Chapter 8a, Damage to Underground Utility
58 Facilities, Section 73-1-7, or Section 73-1-15.5 may not be held criminally or civilly liable for

59 actions allowed by those sections.

60 Section 2. Section **73-1-15** is amended to read:

61 **73-1-15. Obstructing or change of water facilities -- Penalties.**

62 (1) (a) [~~Whenever any~~] When a person has a right-of-way of [~~any~~] an established type
63 or title for [~~any canal or other watercourse it shall be~~] a water facility, as defined in Section
64 73-1-14, it is unlawful for [~~any~~] a person to place or maintain in place any obstruction, or
65 change of the water flow by fence or otherwise, along₂ [~~or~~] across₂ [~~or in such canal or~~
66 ~~watercourse~~] in, or to the water facility, except as where [~~said watercourse~~] the water facility
67 inflicts damage to private property, without first:

68 (i) receiving written permission for the change or obstruction and providing gates
69 sufficient for the passage of the owner or owners of [~~such canal or watercourse~~] the water
70 facility; or

71 (ii) complying with the requirements of Section 73-1-15.5.

72 (b) That the vested rights in the established [~~canals and watercourse~~] ~~H~~→ [right of way]
72a water facility ←~~H~~ shall
73 be protected against all encroachments.

74 (c) That indemnifying agreements may be entered as may be just and proper by
75 governmental agencies.

76 (2) [~~Any~~] A person violating this section is guilty of a crime punishable under Section
77 73-2-27.

78 (3) [~~Any~~] A person who commits an act defined as a crime under this section is also
79 liable for damages or other relief and costs in a civil action to [~~any~~] a person injured by that act.

80 (4) (a) A civil action under this section may be brought independent of a criminal
81 action.

82 (b) Proof of the elements of a civil action under this section need only be made by a
83 preponderance of the evidence.