

Representative Scott H. Chew proposes the following substitute bill:

CRIMINAL TRESPASS AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott H. Chew

Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses criminal trespass on private property related to use of public waters.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes the elements of and penalty for certain criminal trespass;
- ▶ specifies certain defenses; and
- ▶ provides for statutory damages, attorney fees, and court costs.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

76-6-206.5, Utah Code Annotated 1953

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

Section 1. Section **76-6-206.5** is enacted to read:



26 76-6-206.5. Criminal trespass on private property for recreational purposes
27 related to use of public waters.

28 (1) (a) As used in this section:

29 (i) "Bank" means the land within three feet of a public water.

30 (ii) "Private property" means the bed or bank of a non-navigable freshwater stream or
31 river that flows through privately owned land and is privately owned.

32 (iii) "Private property to which access is restricted" means the same as that term is
33 defined in Section [73-29-102](#).

34 (iv) "Recreational purpose" includes one or more of the following:

35 (A) hunting;

36 (B) fishing;

37 (C) swimming;

38 (D) skiing;

39 (E) snowshoeing;

40 (F) camping;

41 (G) picnicking;

42 (H) hiking;

43 (I) studying nature;

44 (J) engaging in water sports;

45 (K) mountain biking; or

46 (L) viewing or enjoying historical, archaeological, scenic, or scientific sites.

47 (b) Terms defined in Sections [76-1-101.5](#) and [76-6-201](#) apply to this section.

48 (2) An actor is guilty of criminal trespass if for recreational purposes, under
49 circumstances not amounting to a greater offense, and without authorization or a right under
50 state law:

51 (a) the actor touches or remains unlawfully on private property to which access is
52 restricted in violation of Section [73-29-201](#) and:

53 (i) intends to cause annoyance or injury to a person or damage to property;

54 (ii) intends to commit a crime, other than theft or a felony; or

55 (iii) is reckless as to whether the actor's presence will cause fear for the safety of
56 another; or

57 (b) knowing the actor's touching or presence is unlawful, the actor touches or remains
58 on private property to which notice against entering is given by:

59 (i) personal communication to the actor by the owner or someone with apparent
60 authority to act for the owner;

61 (ii) fencing or other enclosure obviously designed to exclude intruders; or

62 (iii) posting of signs reasonably likely to come to the attention of intruders.

63 (3) A violation of Subsection (2) is a class B misdemeanor.

64 (4) It is a defense to prosecution under this section that:

65 (a) (i) the private property was at the time open to the public; and

66 (ii) the actor complied with all lawful conditions imposed on access to or remaining on
67 the private property;

68 (b) the actor acted in compliance with an express easement; or

69 (c) the actor touched the private property as allowed by Section [73-29-202](#).

70 (5) In addition to an order for restitution under Section [77-38b-205](#), an actor who
71 violates Subsection (2) is also liable for:

72 (a) statutory damages in the amount of the greater of:

73 (i) three times the value of damages resulting from the violation of Subsection (2); or

74 (ii) \$500;

75 (b) reasonable attorney fees not to exceed \$250; and

76 (c) court costs.

77 (6) Civil damages under Subsection (5) may be collected in a separate action by the
78 private property owner or the owner's assignee.