

HB0208S01 compared with HB0208

~~text~~ shows text that was in HB0208 but was deleted in HB0208S01.

text shows text that was not in HB0208 but was inserted into HB0208S01.

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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

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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:

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

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

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

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

(~~fc~~iii) "Private property to which access is restricted" means the same as that term is defined in Section 73-29-102.

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

(~~fi~~A) hunting;

(~~fii~~B) fishing;

(~~fiii~~C) swimming;

(~~fiiv~~D) skiing;

(~~fiiv~~E) snowshoeing;

(~~fiiv~~F) camping;

(~~fiivii~~G) picnicking;

(~~fiiviii~~H) hiking;

(~~fiix~~I) studying nature;

(~~fiix~~J) engaging in water sports;

(~~fiixi~~K) mountain biking; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) \$500;

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

(c) court costs.

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