

**Representative Keven J. Stratton** proposes the following substitute bill:

**WATER USAGE AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Doug Owens**

Senate Sponsor: Michael K. McKell

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**LONG TITLE**

**General Description:**

This bill establishes penalties for watering lawn or turf during a restricted period.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ addresses civil citations for watering lawn or turf during a restricted period; and
- ▶ establishes a sunset date.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**63I-1-273**, as last amended by Laws of Utah 2022, Chapters 68, 79

ENACTS:

**73-10-38**, Utah Code Annotated 1953

**78B-6-2401**, Utah Code Annotated 1953

**78B-6-2402**, Utah Code Annotated 1953



26 [78B-6-2403](#), Utah Code Annotated 1953  
27 [78B-6-2404](#), Utah Code Annotated 1953  
28 [78B-6-2405](#), Utah Code Annotated 1953

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

31 Section 1. Section **63I-1-273** is amended to read:

32 **63I-1-273. Repeal dates: Title 73.**

33 (1) Title 73, Chapter 27, Legislative Water Development Commission, is repealed  
34 January 1, 2031.

35 (2) Section [73-10-38](#) is repealed July 1, 2028.

36 ~~[(2)]~~ (3) In relation to Title 73, Chapter 10g, Part 2, Agricultural Water Optimization,  
37 on July 1, 2025:

38 (a) Section [73-10g-202](#) is repealed; and

39 (b) Section [73-10g-203](#) is repealed.

40 ~~[(3)]~~ (4) Section [73-18-3.5](#), which authorizes the Division of Outdoor Recreation to  
41 appoint an advisory council that includes in the advisory council's duties advising on boating  
42 policies, is repealed July 1, 2024.

43 ~~[(4)]~~ (5) Title 73, Chapter 30, Great Salt Lake Advisory Council Act, is repealed July  
44 1, 2027.

45 ~~[(5)]~~ (6) In relation to Title 73, Chapter 31, Water Banking Act, on December 31,  
46 2030:

47 (a) Subsection [73-1-4\(2\)\(e\)\(xi\)](#) is repealed;

48 (b) Subsection [73-10-4\(1\)\(h\)](#) is repealed; and

49 (c) Title 73, Chapter 31, Water Banking Act, is repealed.

50 Section 2. Section **73-10-38** is enacted to read:

51 **73-10-38. Conveyance of water.**

52 (1) As used in this section:

53 (a) "Division" means the Division of Water Resources created in Section [73-10-18](#).

54 (b) "Great Salt Lake basin" means the same as that term is defined in Section  
55 [78B-6-2401](#).

56 (c) "Large retail water supplier" means a retail water supplier that serves at least 10,000

57 people.

58 (d) "Large secondary water retail supplier" means a secondary water supplier that  
59 supplies more than 5,000 secondary water connections.

60 (e) "Lawn or turf" means the same as that term is defined in Section [78B-6-2401](#).

61 (f) "Public benefit property" means the same as that term is defined in Section  
62 [78B-6-2401](#).

63 (g) "Retail water supplier" means a person that:

64 (i) supplies water for human consumption and other domestic uses to an end user; and

65 (ii) has more than 500 service connections.

66 (h) "Secondary water" means the same as that term is defined in Section [78B-6-2401](#).

67 (i) "Secondary water connection" means the location at which water leaves a secondary  
68 water supplier's pipeline and enters into the pipes owned by another person to supply water to  
69 an end user.

70 (j) "Secondary water supplier" means an entity that supplies pressurized secondary  
71 water to the end user of the secondary water.

72 (k) "Shoulder season" means the time period that begins on October 1 of a calendar  
73 year and ends on April 25 of the following calendar year.

74 (l) "Wholesale water supplier" means a person that provides most of the person's water  
75 to:

76 (i) a retail water supplier;

77 (ii) a secondary water supplier; or

78 (iii) a combination of a retail water supplier and a secondary water supplier.

79 (2) Except as provided in Subsection (3)(b), a retail water supplier or a secondary water  
80 supplier within the Great Salt Lake basin shall adopt an ordinance, resolution, rule, or  
81 regulation that prohibits the use of culinary water or pressurized secondary water for the  
82 irrigation of lawn or turf within the Great Salt Lake basin during a shoulder season.

83 (3) An ordinance, resolution, rule, or regulation described in Subsection (2):

84 (a) shall be adopted on or before October 1, 2023;

85 (b) may include an exemption for water used during a shoulder season:

86 (i) on lawn or turf that is located on public benefit property;

87 (ii) for the watering of a food-bearing plant; or

88 (iii) on new landscaping for one year after the landscaping is installed; and  
89 (c) may adjust the definition of a shoulder season to begin earlier than October 1 or end  
90 later than April 25 based on local growing conditions.

91 (4) A large retail water supplier or a large secondary water retail supplier shall:

92 (a) on or before June 15 of each year, calculate:

93 (i) the amount of water that, but for the immediately preceding shoulder season, would  
94 otherwise have reasonably been depleted during the immediately preceding shoulder season for  
95 the irrigation of non-exempt lawn or turf within the water supplier's service area; and

96 (ii) of the amount calculated under Subsection (4)(a)(i), the amount that is attributable  
97 to surface water that would have passed through a reservoir, including surface water that would  
98 have been delivered to the water supplier through a reservoir by a wholesale water supplier;

99 (b) prepare a written explanation of how the calculation described in Subsection (4)(a)  
100 was made, including the share of water attributable to a wholesale water supplier under  
101 Subsection (4)(a)(ii); and

102 (c) on or before June 30 of each year, provide the calculation and written explanation  
103 to the division.

104 (5) A large retail water supplier or a large secondary water retail supplier does not need  
105 to make the calculation described in Subsection (4)(a) if that calculation has been performed by  
106 another large retail water supplier or a large secondary water retail supplier for the same service  
107 area.

108 (6) A wholesale water supplier shall assist a large retail water supplier, or a large  
109 secondary retail water supplier, that receives water from the wholesale water supplier in  
110 making the calculation described in Subsection (4)(a).

111 (7) In making the calculation described in Subsection (4)(a):

112 (a) water that is imported from outside the Great Salt Lake basin shall be excluded; and

113 (b) the amount of water that would have been depleted may be determined using any  
114 reasonable basis, including accounting for variability due to temperatures and precipitation  
115 during the period water would have reasonably been used.

116 (8) The division shall publish the calculation described in Subsection (4)(a) on the  
117 division's website on or before October 1 of each year.

118 (9) Nothing in this section prohibits a retail water supplier or a secondary water

119 supplier from adopting or enforcing limitations or prohibitions on the use of water for lawn or  
120 turf during times outside of the shoulder season.

121 Section 3. Section **78B-6-2401** is enacted to read:

122 **78B-6-2401. Definitions.**

123 As used in this part:

124 (1) "Authorized officer" means:

125 (a) a law enforcement officer as defined in Section [53-13-103](#); or

126 (b) a local entity inspector.

127 (2) "Great Salt Lake basin" means the area within:

128 (a) the drainage areas of the Bear River or the Bear River's tributaries;

129 (b) the drainage areas of Bear Lake or Bear Lake's tributaries;

130 (c) the drainage areas of the Weber River or the Weber River's tributaries;

131 (d) the drainage areas of the Jordan River or the Jordan River's tributaries;

132 (e) the drainage areas of Utah Lake or Utah Lake's tributaries;

133 (f) other water drainages lying between the Bear River and the Jordan River that are  
134 tributary to the Great Salt Lake and not included in the drainage areas described in Subsections

135 (2)(a) through (e); and

136 (g) the drainage area of Tooele Valley.

137 (3) (a) "Lawn or turf" means nonagricultural land planted with mowed or managed  
138 grasses.

139 (b) "Lawn or turf" does not mean land planted by sod farmers.

140 (4) "Local entity" means the municipality or county where the real property is located.

141 (5) "Local entity inspector" is a person appointed by a local entity for the purpose of  
142 enforcing the provisions of this chapter.

143 (6) "Non-owner occupant" means a person:

144 (a) who is not an owner of record of the real property and who occupies the property  
145 under a lease, contract, or other agreement with the owner;

146 (b) who manages the property; or

147 (c) who is responsible for the property, including a manager or agent of the owner.

148 (7) "Public benefit property" means real property that is dedicated primarily to public  
149 use, regardless of ownership, and is limited to:

- 150 (a) a school;
- 151 (b) an amphitheater;
- 152 (c) a park or play field;
- 153 (d) a cemetery;
- 154 (e) a golf course; or
- 155 (f) a stadium or other venue that uses lawn or turf for professional, semi-professional,
- 156 or collegiate sports.

157 (8) "Restricted period" means:

- 158 (a) within the Great Salt Lake basin, the period of time before April 25 and after
- 159 October 1;

160 (b) within a particular county, a day on which the Division of Water Resources posts a

161 notice on a website administered by the division indicating that no irrigation of lawn or turf

162 should be conducted on that day; or

163 (c) a day that irrigation of lawn or turf is prohibited by an ordinance, resolution,

164 regulation, or rule of the municipality, county, retail public water supplier, or secondary water

165 supplier where the real property is located.

166 (9) "Secondary water" means water that:

167 (a) is delivered to and used by an end user for the irrigation of landscaping or a garden;

168 and

169 (b) is not culinary water or water used on land assessed under Title 59, Chapter 2, Part

170 5, Farmland Assessment Act.

171 Section 4. Section **78B-6-2402** is enacted to read:

172 **78B-6-2402. Citation - Civil penalty.**

173 (1) Except as provided in Subsection (4), an owner or non-owner occupant of real

174 property may not knowingly conduct, aid, or allow the use of culinary water or pressurized

175 secondary water for the irrigation of lawn or turf during a restricted period.

176 (2) An authorized officer may issue a written citation to an owner or non-owner

177 occupant who violates Subsection (1).

178 (3) An individual who receives a citation under this section is subject to a civil penalty

179 of:

180 (a) a fine of \$45 for the first citation; or

181 (b) double the fine imposed for an immediately preceding citation in the same calendar  
182 year.

183 (4) This section does not apply to:

184 (a) public benefit property; or

185 (b) the use of water for:

186 (i) new landscaping for one year after the landscaping is installed; or

187 (ii) the watering of a food-bearing plant.

188 (5) An owner or non-owner occupant of real property is subject to the provisions of  
189 this part regardless of whether the individual is directly responsible for the operation of the  
190 irrigation system serving the lawn or turf.

191 (6) (a) Except as provided in Subsection (7), an authorized officer shall serve written  
192 notice, as a warning, in accordance with Subsection (6)(b) at least five days before the day on  
193 which the authorized officer issues a citation under this part, to:

194 (i) a property owner of record according to the records of the county recorder; or

195 (ii) a non-owner occupant of the property if the property owner is not an occupant of  
196 the property.

197 (b) The written notice described in Subsection (6)(a) shall be served:

198 (i) on the owner of record by posting on the property, or by mailing the notice to the  
199 last-known address of the owner, according to the county recorder's records; or

200 (ii) subject to Subsection (6)(a)(ii), on a non-owner occupant of the property, by  
201 posting on the property or by mail to the property address.

202 (c) In the written notice described in Subsection (6)(a), the authorized officer shall:

203 (i) identify the property owner of record according to the county recorder's records;

204 (ii) identify the relevant ordinance, resolution, regulation, rule, or notice establishing  
205 the restricted period;

206 (iii) describe the violation of the relevant ordinance, resolution, regulation, rule, or  
207 notice; and

208 (iv) describe the fine that may be imposed.

209 (d) If an owner or non-owner occupant that is served a notice described in Subsection  
210 (6)(b) ceases violation of the provision described in the notice within five days after the day on  
211 which the notice is served, the authorized officer may not issue a citation, unless, after the

212 five-day period described in this Subsection (6)(d), the owner or non-owner occupant violates a  
213 provision described in Subsection (6)(c)(iii).

214 (7) An authorized officer is not required to make more than one written notice under  
215 Subsection (6) for each calendar year.

216 Section 5. Section **78B-6-2403** is enacted to read:

217 **78B-6-2403. Collection of civil penalty.**

218 (1) A local entity shall mail a notice of the civil penalty amount, for a citation issued  
219 under Section [78B-6-2402](#), by first-class or certified mail within 14 days after the day on which  
220 a citation is issued under Section [78B-6-2402](#).

221 (2) (a) An individual liable under Section [78B-6-2402](#) shall remit payment of a civil  
222 penalty to the local entity that provides the notice required by Subsection (1) within 90 days  
223 after the day on which the notice is sent.

224 (b) Notwithstanding Subsection (2)(a), a local entity may:

225 (i) reduce the amount of a civil penalty; or

226 (ii) negotiate a payment schedule for a civil penalty.

227 (3) (a) A civil penalty imposed under this section may be appealed as provided in  
228 Section [78B-6-2405](#).

229 (b) Notwithstanding Subsection (2), the payment of a civil payment is stayed pending  
230 an appeal made under Section [78B-6-2405](#).

231 (4) The amount of a civil penalty owed under this part is considered a debt owed to the  
232 local entity by the person cited under this part.

233 (5) Upon receiving the notice required by Subsection (1), a person owing a civil  
234 penalty under this section is liable in a civil action brought in the name of the local entity for  
235 recovery of:

236 (a) the civil penalty; and

237 (b) reasonable attorney fees.

238 Section 6. Section **78B-6-2404** is enacted to read:

239 **78B-6-2404. Reservation of legal options - Ordinances.**

240 (1) The provisions of this part are provided for in addition to any other civil or criminal  
241 statute.

242 (2) A local entity may adopt by ordinance stricter provisions controlling the use of



243 water on lawn or turf, including a different or higher fine schedule, than those provided in this  
244 part.

245 Section 7. Section **78B-6-2405** is enacted to read:

246 **78B-6-2405. Appeals.**

247 A person that receives a civil penalty under this part may appeal the penalty under the  
248 procedures used by the local entity for appealing a violation of an ordinance.