

1 **CRIMINAL TRESPASS AMENDMENTS**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Scott H. Chew**

5 Senate Sponsor: Scott D. Sandall

7 **LONG TITLE**

8 **General Description:**

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

10 **Highlighted Provisions:**

11 This bill:

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

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 ENACTS:

22 **76-6-206.5**, Utah Code Annotated 1953

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

25 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.