

**WATER FACILITIES AMENDMENTS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Logan Wilde**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions regarding interfering with or obstructing water facilities.

**Highlighted Provisions:**

This bill:

- ▶ modifies provisions regarding interfering with or obstructing water facilities; 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

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

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

**73-1-14. Interfering with water facilities or an individual authorized to apportion water -- Penalty and liability.**

~~[(1) Any person, who in any way unlawfully interferes with, injures, destroys or~~



28 ~~removes any dam, head gate, weir, casing, valve, cap or other appliance for the diversion,~~  
29 ~~apportionment, measurement or regulation of water, or who interferes with any person~~  
30 ~~authorized to apportion water while in the discharge of his duties, is guilty of a crime~~  
31 ~~punishable under Section [73-2-27](#).]~~

32 ~~[(2) Any person who commits an act defined as a crime under this section is also liable~~  
33 ~~in a civil action for damages or other relief to any person injured by that act.]~~

34 (1) (a) Except as provided in Subsection (4), a person without ownership rights may  
35 not, without written permission:

36 (i) intentionally, knowingly, recklessly, or with criminal negligence interfere with,  
37 injure, destroy, or remove any dam, head gate, weir, casing, valve, cap, or other facility for the  
38 diversion, apportionment, measurement, or regulation of water;

39 (ii) intentionally, knowingly, recklessly, or with criminal negligence damage a pipeline,  
40 culvert, flume, conduit, ditch, canal, reservoir, storage tank, spring box, well, meter, or other  
41 facility for the diversion, transportation, distribution, measurement, or storage of water,  
42 stormwater, wastewater, or sewage; or

43 (iii) intentionally make a temporary or permanent connection to a pipeline, culvert,  
44 flume, conduit, ditch, canal, reservoir, storage tank, spring box, well, meter, or other facility for  
45 the diversion, transportation, distribution, measurement, or storage of water, stormwater,  
46 wastewater, or sewage.

47 (b) A person may not intentionally, knowingly, recklessly, or with criminal negligence  
48 interfere with an individual authorized to apportion water while in the discharge of the  
49 individual's authorized duties.

50 (c) A person who violates a provision in Subsection (1)(a) or (b) is guilty of a crime  
51 punishable under Section [73-2-27](#).

52 (2) A person who commits an act defined as a crime under this section is also liable for  
53 damages or other relief and costs in a civil action brought by a person injured by that act.

54 (3) (a) A civil action under this section may be brought independent of a criminal  
55 action.

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

58 (4) An individual who has complied with Section [73-1-7](#) may not be held criminally or

59 civilly liable for actions allowed under Section 73-1-7.

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

61 **73-1-15. Obstructing water facilities -- Penalties.**

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

67 (1) (a) A person without ownership rights may not obstruct or change the water flow to  
68 a pipeline, culvert, flume, conduit, ditch, canal, reservoir, storage tank, spring box, well, meter,  
69 or other facility for the diversion, transportation, distribution, measurement, or storage of  
70 water, stormwater, wastewater, or sewage, except where the facility inflicts damage to private  
71 property, before the person:

72 (i) ~~[receiving]~~ receives written permission for the change or obstruction and  
73 ~~[providing]~~ provides gates sufficient for the passage of the owner or owners of ~~[such canal or~~  
74 ~~watercourse]~~ the facility; or

75 (ii) ~~[complying]~~ complies with the requirements of Section 73-1-15.5.

76 (b) ~~[That the]~~ The vested rights in the established ~~[canals and watercourse]~~  
77 right-of-way shall be protected against all encroachments.

78 (c) ~~[That indemnifying]~~ Indemnifying agreements may be entered as may be just and  
79 proper by governmental agencies.

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

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

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

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