

1 **WILDLAND FIRE AMENDMENTS**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Margaret Dayton**

5 House Sponsor: Michael E. Noel

7 **LONG TITLE**

8 **General Description:**

9 This bill makes a person liable for the cost of suppressing a wildland fire that is
10 negligently, recklessly, or intentionally caused or spread by that person.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ makes a person liable for the cost of suppressing a wildland fire that is negligently,
15 recklessly, or intentionally caused or spread by that person;
- 16 ▶ allows a person who incurs costs to suppress a wildland fire to bring an action to
17 recover those costs; and
- 18 ▶ makes technical changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **65A-1-1**, as last amended by Laws of Utah 2009, Chapter 344

26 **65A-3-2**, as enacted by Laws of Utah 1988, Chapter 121

27 **65A-3-3**, as last amended by Laws of Utah 1998, Chapter 282

28 REPEALS AND REENACTS:

29 **65A-3-4**, as enacted by Laws of Utah 1988, Chapter 121

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

Section 1. Section **65A-1-1** is amended to read:

TITLE 65A. FORESTRY, FIRE, AND STATE LANDS

65A-1-1. Definitions.

As used in this title:

(1) "Advisory council" or "council" means the Forestry, Fire, and State Lands Advisory Council.

(2) "Division" means the Division of Forestry, Fire, and State Lands.

(3) "Multiple use" means the management of various surface and subsurface resources in a manner that will best meet the present and future needs of the people of this state.

(4) "Public trust assets" means those lands and resources, including sovereign lands, administered by the division.

(5) "Sovereign lands" means those lands lying below the ordinary high water mark of navigable bodies of water at the date of statehood and owned by the state by virtue of its sovereignty.

(6) "State lands" means all lands administered by the division.

(7) "Sustained yield" means the achievement and maintenance of high level annual or periodic output of the various renewable resources of land without impairment of the productivity of the land.

(8) "Wildland" means an area where:

(a) development is essentially non-existent, except for roads, railroads, powerlines, or similar transportation facilities; and

(b) structures, if any, are widely scattered.

(9) "Wildland fire" means a fire that consumes:

(a) wildland; or

(b) wildland-urban interface, as defined in Section 65A-8a-102.

Section 2. Section **65A-3-2** is amended to read:

CHAPTER 3. ILLEGAL ACTIVITIES ON STATE LANDS
AND WILDLAND FIRE LIABILITY

65A-3-2. Wildland fire prevention -- Prohibited acts.

(1) A person is guilty of a class B misdemeanor who:

(a) throws or places any lighted cigarette, cigar, firecracker, ashes, or other flaming or glowing substance [~~which~~] that may cause a fire on a highway or a wildland fire;

(b) obstructs the state forester, [~~or any of his deputies~~] an employee of the division, or an agent of the division, in the performance of controlling a fire;

(c) refuses, on proper request of the state forester [~~or any of his deputies~~], an employee of the division, or an agent of the division, to assist in the controlling of a fire, without good and sufficient reason; or

(d) fires any tracer or incendiary ammunition anywhere except within the confines of established military reservations.

(2) Fines assessed under this section are deposited in the General Fund.

Section 3. Section 65A-3-3 is amended to read:

65A-3-3. Enforcement of laws -- County attorney or district attorney to prosecute.

(1) It is the duty of the division, county sheriffs, their deputies, peace officers, and other law enforcement officers within their jurisdiction to enforce the provisions of this chapter and to investigate and gather evidence that may indicate a violation under this chapter.

(2) The county attorney or district attorney as appropriate under Sections 17-18-1, 17-18-1.5, and 17-18-1.7, shall:

(a) prosecute any criminal violations of this chapter; and [~~shall~~]

(b) initiate a civil action to recover suppression costs incurred by the county or state for suppression of fire on private land.

Section 4. Section 65A-3-4 is repealed and reenacted to read:

65A-3-4. Liability for causing wildland fires.

(1) A person who negligently, recklessly, or intentionally causes or spreads a wildland

86 fire shall be liable for the cost of suppressing that wildland fire, regardless of whether the fire
87 begins on:

88 (a) private land;

89 (b) land owned by the state;

90 (c) federal land; or

91 (d) tribal land.

92 (2) The conduct described in Subsection (1) includes any negligent, reckless, or
93 intentional conduct, and is not limited to conduct described in Section 65A-3-2.

94 (3) A person who incurs costs to suppress a wildland fire may bring an action under
95 this section to recover those costs.

96 (4) A person who suffers damage from a wildland fire may pursue all other legal
97 remedies in addition to seeking damages under Subsection (3).