

1 **FIREWORKS RESTRICTIONS**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: James A. Dunnigan**

5 Senate Sponsor: Jani Iwamoto

6

7 **LONG TITLE**

8 **Committee Note:**

9 The Business and Labor Interim Committee recommended this bill.

10 **General Description:**

11 This bill amends provisions related to the permissible discharge of fireworks.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ amends and clarifies the dates on which a person may legally discharge fireworks;
- 15 ▶ increases the criminal fine for discharging fireworks outside of permitted dates and
- 16 times;
- 17 ▶ clarifies when a municipality may prohibit a person from discharging fireworks;
- 18 ▶ increases the areas within which a municipality or the state forester may prohibit the
- 19 discharge of fireworks;
- 20 ▶ in certain situations, requires local governments and the state forester to create and
- 21 provide maps identifying areas in which fireworks are prohibited due to hazardous
- 22 environmental conditions;
- 23 ▶ requires retailers that sell fireworks to display:
- 24 • maps a county provides indicating areas within the county in which fireworks
- 25 are prohibited due to hazardous environmental conditions; and
- 26 • signs regarding permissible discharge dates and times and certain criminal
- 27 penalties;



- 28 ▶ prohibits the state forester from limiting or restricting the discharge of fireworks
- 29 within municipal boundaries;
- 30 ▶ imposes civil liability when certain fireworks discharge causes a fire; and
- 31 ▶ makes technical and conforming changes.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 AMENDS:

- 38 **10-8-47**, as last amended by Laws of Utah 2012, Chapter 140
- 39 **11-3-8**, as last amended by Laws of Utah 1993, Chapter 234
- 40 **15A-5-202.5**, as last amended by Laws of Utah 2016, Chapter 216
- 41 **53-7-221**, as enacted by Laws of Utah 1993, Chapter 234
- 42 **53-7-225**, as last amended by Laws of Utah 2016, Chapter 216
- 43 **65A-8-212**, as last amended by Laws of Utah 2013, Chapter 307

44 ENACTS:

- 45 **53-7-225.1**, Utah Code Annotated 1953



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

48 Section 1. Section **10-8-47** is amended to read:

49 **10-8-47. Intoxication -- Fights -- Disorderly conduct -- Assault and battery -- Petit**
 50 **larceny -- Riots and disorderly assemblies -- Firearms and fireworks -- False pretenses**
 51 **and embezzlement -- Sale of liquor, narcotics, or tobacco to minors -- Possession of**
 52 **controlled substances -- Treatment of alcoholics and narcotics or drug addicts.**

53 (1) A municipal legislative body may:

54 (a) prevent intoxication, fighting, quarreling, dog fights, cockfights, prize fights,
 55 bullfights, and all disorderly conduct and provide against and punish the offenses of assault and
 56 battery and petit larceny;

57 (b) [~~the municipal legislative body may~~] restrain riots, routs, noises, disturbances, or
 58 disorderly assemblies in any street, house, or place in the city;

59 (c) ~~[the municipal legislative body may]~~ regulate and prevent the discharge of firearms,
60 rockets, powder, fireworks in accordance with Section 53-7-225, or any other dangerous or
61 combustible material;

62 (d) ~~[the municipal legislative body may]~~ provide against and prevent the offense of
63 obtaining money or property under false pretenses and the offense of embezzling money or
64 property in all cases where the money or property embezzled or obtained under false pretenses
65 does not exceed in value the sum of \$500; and

66 (e) ~~[may]~~ prohibit the sale, giving away, or furnishing of narcotics, alcoholic beverages
67 to a person younger than 21 years of age, or tobacco to any person younger than 19 years of
68 age~~[-cities may,]~~.

69 (2) A city may:

70 (a) by ordinance, prohibit the possession of controlled substances as defined in the
71 Utah Controlled Substances Act or any other endangering or impairing substance, provided the
72 conduct is not a class A misdemeanor or felony~~[-];~~ and

73 (b) provide for treatment of alcoholics, narcotic addicts, and other persons who are
74 addicted to the use of drugs or intoxicants such that a person substantially lacks the capacity to
75 control the person's use of the drugs or intoxicants, and judicial supervision may be imposed as
76 a means of effecting their rehabilitation.

77 Section 2. Section 11-3-8 is amended to read:

78 **11-3-8. Conflicting local ordinances prohibited.**

79 A county, city, ~~[or] town,~~ or metro township may not adopt an ordinance or regulation
80 in conflict with Sections 53-7-220 through 53-7-225.

81 Section 3. Section 15A-5-202.5 is amended to read:

82 **15A-5-202.5. Amendments and additions to Chapters 3 and 4 of IFC.**

83 (1) For IFC, Chapter 3, General Requirements:

84 (a) IFC, Chapter 3, Section 304.1.2, Vegetation, is amended as follows: Delete line six
85 and replace it with: "the Utah Administrative Code, R652-122-200, Minimum Standards for
86 Wildland Fire Ordinance".

87 (b) IFC, Chapter 3, Section 310.8, Hazardous and Environmental Conditions, is deleted
88 and rewritten as follows: "1. When the fire code official determines that existing or historical
89 hazardous environmental conditions necessitate controlled use of any ignition source, including

90 fireworks, lighters, matches, sky lanterns, and smoking materials, any of the following may
91 occur:

92 [+] 1.1. If the existing or historical hazardous environmental conditions exist in a
93 municipality, the legislative body of the municipality may prohibit the ignition or use of an
94 ignition source in:

95 1.1.1. mountainous, brush-covered, [~~or~~] forest-covered, or dry grass-covered areas [~~or~~];

96 1.1.2. within 200 feet of waterways, trails, canyons, washes, ravines, or similar areas;

97 1.1.3. the wildland urban interface area, which means the line, area, or zone where
98 structures or other human development meet or intermingle with undeveloped wildland or land
99 being used for an agricultural purpose[~~;~~]; or

100 1.1.4. a limited area outside the hazardous areas described in this paragraph 1.1 to
101 facilitate a readily identifiable closed area, in accordance with paragraph 2.

102 [2] 1.2. [~~Except as provided in paragraph 3, if the~~] If the existing or historical
103 hazardous environmental conditions exist in an unincorporated area, the state forester may
104 prohibit the ignition or use of an ignition source in all or part of the areas described in
105 paragraph [+] 1.1 that are within the unincorporated area, after consulting with the county fire
106 code official who has jurisdiction over that area.

107 [3] 1.3. If the existing or historical hazardous environmental conditions exist in a metro
108 township created under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and
109 Unincorporated Islands in a County of the First Class[~~;~~] on and after May 12, 2015, the metro
110 township legislative body may prohibit the ignition or use of an ignition source in all or part of
111 the areas described in paragraph [+] 1.1 that are within the township.[~~4~~]

112 2. If a municipal legislative body, the state forester, or a metro township legislative
113 body closes an area to the discharge of fireworks under paragraph 1, the legislative body or
114 state forester shall:

115 2.1. designate the closed area along readily identifiable features like major roadways,
116 waterways, or geographic features;

117 2.2. ensure that the boundary of the designated closed area is as close as is practical to
118 the defined hazardous area, provided that the closed area may include areas outside of the
119 hazardous area to facilitate a readily identifiable line; and

120 2.3. identify the closed area through a written description or map that is readily

121 available to the public.

122 3. A municipal legislative body, the state forester, or a metro township legislative body
123 may close a defined area to the discharge of fireworks due to a historical hazardous
124 environmental condition under paragraph 1 if the legislative body or state forester:

125 3.1. makes a finding that the historical hazardous environmental condition has existed
126 in the defined area before July 1 of at least two of the preceding five years;

127 3.2. produces a map indicating the boundaries, in accordance with paragraph 2, of the
128 defined area described; and

129 3.3. before May 1 of each year the defined area is closed, provides the map described
130 in paragraph 3.2 to the county in which the defined area is located.

131 4. A municipal legislative body, the state forester, or a metro township legislative body
132 may not close an area to the discharge of fireworks due to a historical hazardous environmental
133 condition unless the legislative body or state forester provides a map, in accordance with
134 paragraph 3."

135 (c) IFC, Chapter 3, Section 311.1.1, Abandoned Premises, is amended as follows: On
136 line 10 delete the words "International Property Maintenance Code and the".

137 (d) IFC, Chapter 3, Section 311.5, Placards, is amended as follows: On line three delete
138 the word "shall" and replace it with the word "may".

139 (e) IFC, Chapter 3, Section 315.2.1, Ceiling Clearance, is amended to add the
140 following: "Exception: Where storage is not directly below the sprinkler heads, storage is
141 allowed to be placed to the ceiling on wall-mounted shelves that are protected by fire sprinkler
142 heads in occupancies meeting classification as light or ordinary hazard."

143 (2) IFC, Chapter 4, Emergency Planning and Preparedness:

144 (a) IFC, Chapter 4, Section 403.10.2.1, College and university buildings, is deleted and
145 replaced with the following:

146 "403.10.2.1 College and university buildings and fraternity and sorority houses.

147 (a) College and university buildings, including fraternity and sorority houses, shall
148 prepare an approved fire safety and evacuation plan, in accordance with Section 404.

149 (b) Group R-2 college and university buildings, including fraternity and sorority
150 houses, shall comply with Sections 403.10.2.1.1 and 403.10.2.1.2."

151 (b) IFC, Chapter 4, Section 405.2, Table 405.2, is amended to add the following

152 footnotes:

153 (i) "e. Secondary schools in Group E occupancies shall have an emergency evacuation
154 drill for fire conducted at least every two months, to a total of four emergency evacuation drills
155 during the nine-month school year. The first emergency evacuation drill for fire shall be
156 conducted within 10 school days after the beginning of classes. The third emergency
157 evacuation drill for fire, weather permitting, shall be conducted 10 school days after the
158 beginning of the next calendar year. The second and fourth emergency evacuation drills may
159 be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock
160 down for violence. If inclement weather causes a secondary school to miss the 10-day deadline
161 for the third emergency evacuation drill for fire, the secondary school shall perform the third
162 emergency evacuation drill for fire as soon as practicable after the missed deadline."

163 (ii) "f. In Group E occupancies, excluding secondary schools, if the AHJ approves, the
164 monthly required emergency evacuation drill can be substituted by a security or safety drill to
165 include shelter in place, earthquake drill, or lock down for violence. The routine emergency
166 evacuation drill for fire must be conducted at least every other evacuation drill."

167 (iii) "g. A-3 occupancies in academic buildings of institutions of higher learning are
168 required to have one emergency evacuation drill per year, provided the following conditions are
169 met:

170 (A) The building has a fire alarm system in accordance with Section 907.2.

171 (B) The rooms classified as assembly shall have fire safety floor plans as required in
172 Subsection 404.2.2(4) posted.

173 (C) The building is not classified a high-rise building.

174 (D) The building does not contain hazardous materials over the allowable quantities by
175 code."

176 Section 4. Section **53-7-221** is amended to read:

177 **53-7-221. Exceptions from Utah Fireworks Act.**

178 (1) Sections 53-7-220 through 53-7-225 do not apply to class A, class B, and class C
179 explosives that are not for use in Utah, but are manufactured, stored, warehoused, or in transit
180 for destinations outside of Utah.

181 (2) Sections 53-7-220 through 53-7-225 do not supersede Section 23-13-7, regarding
182 use of fireworks and explosives by the Division of Wildlife Resources and federal game agents.

183 (3) Section 53-7-225 does not supersede Section 65A-8-212 regarding the authority of
 184 the state forester to close hazardous areas.

185 Section 5. Section **53-7-225** is amended to read:

186 **53-7-225. Times for sale and discharge of fireworks -- Criminal penalty --**
 187 **Permissible closure of certain areas -- Maps and signage.**

188 (1) [~~This~~] Except as provided in Section 53-7-221, this section [supercedes] supersedes
 189 any other code provision regarding the sale or discharge of fireworks.

190 (2) A person may sell class C common state approved explosives in the state as
 191 follows:

192 (a) beginning on June [~~23~~] 24 and ending on July [~~27~~] 25;

193 (b) beginning on December 29 and ending on December 31; and

194 (c) two days before and on the Chinese New Year's eve.

195 (3) [~~Except as provided in Subsection (5), a county or municipality may not prohibit~~
 196 ~~any person from discharging~~] A person may not discharge class C common state approved
 197 explosives in the state except as follows:

198 (a) between the hours of 11 a.m. and 11 p.m., except that on July 4 and July 24, the
 199 hours are 11 a.m. to midnight:

200 (i) beginning on July [~~1~~] 2 and ending on July [~~7~~] 5; and

201 (ii) beginning on July [~~21~~] 22 and ending on July [~~27~~] 25;

202 (b) (i) beginning at 11 a.m. on December 31 and ending at 1 a.m. on the following day;

203 or

204 (ii) if New Year's eve is on a Sunday and the [~~local governmental jurisdiction~~] county,
 205 municipality, or metro township determines to celebrate New Year's eve on the prior Saturday,
 206 then [~~it is lawful to discharge Class~~] a person may discharge class C common state approved

207 explosives on that prior Saturday within the county, municipality, or metro township; and

208 (c) beginning at 11 a.m. on the Chinese New Year's eve and ending at 1 a.m. on the
 209 following day.

210 (4) A person [~~who violates the time restrictions stated in Subsection (3)(a), (b), or (c)]~~
 211 is guilty of an infraction[;], punishable by a fine of up to \$1,000, if the person discharges a
 212 class C common state approved explosive:

213 (a) outside the legal discharge dates and times described in Subsection (3); or

214 (b) in an area in which fireworks are prohibited under Subsection 15A-5-202.5(1)(b).

215 (5) (a) Except as provided in Subsection (5)(b) or (c), a county, a municipality, a metro
216 township, or the state forester may not prohibit a person from discharging class C common
217 state approved explosives during the permitted periods described in Subsection (3).

218 (b) (i) As used in this Subsection (5)(b), "negligent discharge":

219 (A) means the improper use and discharge of a class C common state approved
220 explosive; and

221 (B) does not include the date or location of discharge or the type of explosive used.

222 ~~[(5)]~~ (ii) A [county or] municipality or metro township may prohibit [any person from
223 discharging]:

224 (A) the discharge of class C common state approved explosives[:(a) as provided] in
225 certain areas with hazardous environmental conditions, in accordance with Subsection

226 15A-5-202.5(1)(b); or

227 ~~[(b) in accordance with a municipal ordinance prohibiting]~~

228 (B) the negligent discharge of class C common state approved explosives.

229 (iii) A county may prohibit the negligent discharge of class C common state approved
230 explosives.

231 (c) The state forester may prohibit the discharge of class C common state approved
232 explosives as provided in Subsection 15A-5-202.5(1)(b) or Section 65A-8-212.

233 (6) If a municipal legislative body, the state forester, or a metro township legislative
234 body provides a map to a county identifying an area in which the discharge of fireworks is
235 prohibited due to a historical hazardous environmental condition under Subsection

236 15A-5-202.5(1)(b), the county shall, before June 1 of that same year:

237 (a) create a county-wide map, based on each map the county has received, indicating
238 each area within the county in which fireworks are prohibited under Subsection
239 15A-5-202.5(1)(b);

240 (b) provide the map described in Subsection (6)(a) to:

241 (i) each retailer that sells fireworks within the county; and

242 (ii) the state fire marshal; and

243 (c) publish the map on the county's website.

244 (7) A retailer that sells fireworks shall display:

- 245 (a) a sign that:
246 (i) is clearly visible to the general public in a prominent location near the point of sale;
247 (ii) indicates the legal discharge dates and times described in Subsection (3); and
248 (iii) indicates the criminal charge and fine associated with discharge:
249 (A) outside the legal dates and times described in Subsection (3); and
250 (B) within an area in which fireworks are prohibited under Subsection

251 15A-5-202.5(1)(b); and

- 252 (b) the map that the county provides, in accordance with Subsection (6)(b).

253 Section 6. Section **53-7-225.1** is enacted to read:

254 **53-7-225.1. Civil liability.**

255 (1) (a) An individual who negligently, recklessly, or intentionally causes or spreads a
256 fire through discharge of a class C explosive is liable for the cost of suppressing that fire and
257 any damages the fire causes.

258 (b) If the individual described in Subsection (1)(a) is a minor, the parent or legal
259 guardian having legal custody of the minor is liable for the costs and damages for which the
260 minor is liable under this section.

261 (c) A court may waive part or all of the parent or guardian's liability for damages under
262 Subsection (1)(b) if the court finds:

263 (i) good cause; and

264 (ii) that the parent or legal guardian:

265 (A) made a reasonable effort to supervise and direct the minor; or

266 (B) in the event the parent or guardian knew in advance of the negligent, reckless, or
267 intentional conduct described in Subsection (1)(a), made a reasonable effort to restrain the
268 minor.

269 (2) (a) The conduct described in Subsection (1) includes any negligent, reckless, or
270 intentional conduct, regardless of whether:

271 (i) the person discharges a class C common state approved explosive:

272 (A) within the permitted time periods described in Subsection 53-7-225(3); or

273 (B) in an area where discharge was not prohibited under Subsection 53-7-225(5)(b) or

274 (c); or

275 (ii) the fire begins on:

276 (A) private land;

277 (B) land owned by the state or a political subdivision of the state;

278 (C) federal land; or

279 (D) tribal land.

280 (b) Discharging a class C explosive in an area in which fireworks are prohibited due to
281 hazardous environmental conditions, in accordance with Subsection [15A-5-202.5\(1\)\(b\)](#),
282 constitutes the negligent, reckless, or intentional conduct described in Subsection (1).

283 (3) A person who incurs costs to suppress a fire described in Subsection (1) may bring
284 an action under this section to recover those costs against an individual described in Subsection
285 (1).

286 (4) A person who suffers damage from a fire described in Subsection (1) may:

287 (a) bring an action under this section for those damages against an individual described
288 in Subsection (1); and

289 (b) pursue all other legal remedies in addition to seeking damages under Subsection
290 (4)(a).

291 Section 7. Section **65A-8-212** is amended to read:

292 **65A-8-212. Power of state forester to close hazardous areas -- Violations of an**
293 **order closing an area.**

294 (1) (a) If the state forester finds conditions in a given area in the state to be extremely
295 hazardous, "extremely hazardous" means categorized as "extreme" under a nationally
296 recognized standard for rating fire danger, he shall close those areas to any forms of use by the
297 public, or to limit that use, except as provided in Subsection (5).

298 (b) The closure shall include, for the period of time the state forester considers
299 necessary, the prohibition of open fires, and may include restrictions and prohibitions on:

300 (i) smoking;

301 (ii) the use of vehicles or equipment;

302 (iii) welding, cutting, or grinding of metals;

303 (iv) subject to Subsection (5), fireworks;

304 (v) explosives; or

305 (vi) the use of firearms for target shooting.

306 (c) Any restriction or closure relating to firearms use:

307 (i) shall be done with support of the duly elected county sheriff of the affected county
308 or counties;

309 (ii) shall undergo a formal review by the State Forester and County Sheriff every 14
310 days; and

311 (iii) may not prohibit a person from legally possessing a firearm or lawfully
312 participating in a hunt.

313 (d) The State Forester and County Sheriff shall:

314 (i) agree to the terms of any restriction or closure relating to firearms use;

315 (ii) reduce the agreement to writing;

316 (iii) sign the agreement indicating approval of its terms and duration; and

317 (iv) complete the steps in Subsections (1)(d)(i) through (d)(iii) at each 14 day review
318 and at termination of the restriction or closure.

319 (2) Nothing in this chapter prohibits any resident within the area from full and free
320 access to his home or property, or any legitimate use by the owner or lessee of the property.

321 (3) The order or proclamation closing or limiting the use in the area shall set forth:

322 (a) the exact area coming under the order;

323 (b) the date when the order becomes effective; and

324 (c) if advisable, the authority from whom permits for entry into the area may be
325 obtained.

326 (4) Any entry into or use of any area in violation of this section is a class B
327 misdemeanor.

328 (5) The state forester may not restrict or prohibit the discharge of fireworks within the
329 municipal boundaries of a city, town, or metro township.