

1                                   **STATE HIGHWAY ACCESS MANAGEMENT**

2   2001 GENERAL SESSION

3   STATE OF UTAH

4                                   **Sponsor: Wayne A. Harper**

5   **This act modifies the Transportation Code by amending rulemaking provisions for approach**  
6   **roads and driveways on state highways.**

7   This act affects sections of Utah Code Annotated 1953 as follows:

8   AMENDS:

9           **72-3-109**, as last amended by Chapter 347, Laws of Utah 2000

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

11           Section 1. Section **72-3-109** is amended to read:

12           **72-3-109. Division of responsibility with respect to state highways in cities and towns.**

13           (1) Except as provided in Subsection [~~(2)~~] (3), the jurisdiction and responsibility of the  
14   department and the municipalities for state highways within municipalities is as follows:

15           (a) The department has jurisdiction over and is responsible for the construction and  
16   maintenance of:

17           (i) the portion of the state highway located between the back of the curb on either side of  
18   the state highway; or

19           (ii) if there is no curb, the traveled way, its contiguous shoulders, and appurtenances.

20           (b) The department may widen or improve state highways within municipalities.

21           (c) (i) A municipality has jurisdiction over all other portions of the right-of-way and is  
22   responsible for construction and maintenance of the right-of-way.

23           (ii) If a municipality grants permission for the installation of any pole, pipeline, conduit,  
24   sewer, ditch, culvert, billboard, advertising sign, or any other structure or object of any kind or  
25   character within the portion of the right-of-way under its jurisdiction:

26           (A) the permission shall contain the condition that any installation will be removed from  
27   the right-of-way at the request of the municipality; and

28 (B) the municipality shall cause any installation to be removed at the request of the  
29 department when the department finds the removal necessary:

- 30 (I) to eliminate a hazard to traffic safety;
- 31 (II) for the construction and maintenance of the state highway; or
- 32 (III) to meet the requirements of federal regulations.

33 (d) If it is necessary that a utility, as defined in Section 72-6-116, be relocated,  
34 reimbursement shall be made for the relocation as provided for in Section 72-6-116.

35 (e) (i) The department shall construct curbs, gutters, and sidewalks on the state highways  
36 if necessary for the proper control of traffic, driveway entrances, or drainage.

37 (ii) If a state highway is widened or altered and existing curbs, gutters, or sidewalks are  
38 removed, the department shall replace the curbs, gutters, or sidewalks.

39 (f) The department may furnish and install street lighting systems for state highways, but  
40 their operation and maintenance is the responsibility of the municipality.

41 (g) If new storm sewer facilities are necessary in the construction and maintenance of the  
42 state highways, the cost of the storm sewer facilities shall be borne by the state and the  
43 municipality in a proportion mutually agreed upon between the department and the municipality.

44 ~~[(h) (i)]~~ (2) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking  
45 Act, the department ~~[may]~~ shall make rules governing the location and construction of approach  
46 roads and driveways entering the state highway. The rules shall:

47 (i) include criteria for the design, location, and spacing of approach roads and driveways  
48 based on the functional classification of the adjacent highway, including the urban or rural nature  
49 of the area;

50 (ii) be consistent with the "Manual on Uniform Traffic Control Devices" and the model  
51 access management policy or ordinance developed by the department under Subsection  
52 72-2-117(9);

53 (iii) include procedures for:

54 (A) the application and review of a permit for approach roads and driveways including  
55 review of related site plans that have been approved by a county or municipality legislative body  
56 or planning commission; and

57 (B) approving, modifying, denying, or appealing the modification or denial of a permit for  
58 approach roads and driveways within 45 days of receipt of the application; and

59 (iv) require written justifications for modifying or denying a permit.

60 [~~ii~~] (b) The department may delegate the administration of the rules to the highway  
61 authorities of a municipality.

62 (c) In accordance with this section and Section 72-7-104, an approach road or driveway  
63 may not be constructed on a state highway without a permit issued under this section.

64 [~~2~~] (3) The department has jurisdiction and control over the entire right-of-way of  
65 interstate highways within municipalities and is responsible for the construction, maintenance, and  
66 regulation of the interstate highways within municipalities.

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**Legislative Review Note**

**as of 1-2-01 12:33 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**