

**Senator Karen Mayne** proposes the following substitute bill:

**TRANSPORTATION SAFETY REVISIONS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karen Mayne**

House Sponsor: David Litvack

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**LONG TITLE**

**General Description:**

This bill modifies the Traffic Code and the Utah Criminal Code to address safety related to railroads.

**Highlighted Provisions:**

This bill:

- ▶ provides definitions;
- ▶ restricts when a vehicle may turn around related to railroad tracks or railroad grade crossings;
- ▶ limits pedestrians related to railroad crossings or bridges;
- ▶ restricts vehicles driving through, around, or under a crossing gate or barrier;
- ▶ clarifies transportation systems for purposes of the criminal mischief provision; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



- 26           **41-6a-802**, as renumbered and amended by Laws of Utah 2005, Chapter 2
- 27           **41-6a-1005**, as renumbered and amended by Laws of Utah 2005, Chapter 2
- 28           **41-6a-1203**, as renumbered and amended by Laws of Utah 2005, Chapter 2
- 29           **76-6-106**, as last amended by Laws of Utah 2010, Chapter 193



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

32           Section 1. Section **41-6a-802** is amended to read:

33           **41-6a-802. Turning around -- Where prohibited -- Visibility.**

34           (1) As used in this section, "railroad grade crossing" means the area between the  
35 passive or active warning signs where a railroad track and roadway intersect.

36           (2) The operator of a vehicle may not make a U-turn or turn the vehicle to proceed in  
37 the opposite direction:

38           [(1)] (a) unless the movement can be made safely and without interfering with other  
39 traffic; [or]

40           [(2)] (b) on any curve, or upon the approach to, or near the crest of a grade, if the  
41 vehicle is not visible at a distance of 500 feet by the operator of any other vehicle approaching  
42 from either direction[-]; and

43           (c) on a railroad track or railroad grade crossing.

44           Section 2. Section **41-6a-1005** is amended to read:

45           **41-6a-1005. Limitation on pedestrians related to railroad grade crossings or**  
46 **bridges.**

47           (1) As used in this section, "active railroad grade crossing" means a railroad grade  
48 crossing when:

49           (a) the gate or barrier is closed or is being opened or closed;

50           (b) warning lights are flashing;

51           (c) audible warning devices are being sounded; or

52           (d) other traffic control devices signal the approach of a railroad train.

53           (2) A pedestrian may not pass through, around, over, or under[-] or remain on a  
54 crossing gate or barrier at [a] an active railroad grade crossing or bridge [while the gate or  
55 barrier is closed or is being opened or closed].

56           (3) A pedestrian may not enter or remain within the area between a railroad track and a

57 railroad sign or signal if the railroad grade crossing is active.

58 (4) A pedestrian may not occupy or remain on a railroad grade crossing when the  
59 railroad sign or signal is not active except to cross the railroad crossing on a designated  
60 walkway.

61 (5) A pedestrian may not remain in an area between railroad signs or signals, railroad  
62 gates, or rail crossing arms if the railroad grade crossing is active.

63 Section 3. Section **41-6a-1203** is amended to read:

64 **41-6a-1203. Railroad grade crossing -- Duty to stop -- Malfunctions and school**  
65 **buses -- Driving through, around, or under gate or barrier prohibited.**

66 (1) As used in this section, "active railroad grade crossing" has the same meaning as  
67 defined in Section 41-6a-1005.

68 ~~[(1)]~~ (2) Whenever a person operating a vehicle approaches a railroad grade crossing,  
69 the operator of the vehicle shall stop within 50 feet but not less than 15 feet from the nearest  
70 rail of the railroad track and may not proceed if:

71 (a) a clearly visible electric or mechanical signal device gives warning of the  
72 immediate approach of a train;

73 (b) a crossing gate is lowered, or when a human flagman gives or continues to give a  
74 signal of the approach or passage of a train;

75 (c) a railroad train approaching within approximately 1,500 feet of the highway  
76 crossing emits a signal audible and the train by reason of its speed or nearness to the crossing is  
77 an immediate hazard;

78 (d) an approaching train is plainly visible and is in hazardous proximity to the crossing;

79 or

80 (e) there is any other condition that makes it unsafe to proceed through the crossing.

81 ~~[(2)]~~ (3) (a) An operator of a vehicle who suspects a false activation or malfunction of a  
82 railroad grade crossing signal device may drive a vehicle, including a school bus, through the  
83 railroad grade crossing after stopping if:

84 (i) the operator of a vehicle has a clear line of sight of at least one mile of the railroad  
85 tracks in all directions;

86 (ii) there is no evidence of an approaching train;

87 (iii) the vehicle can cross over the tracks safely; and

88 (iv) the operator of a vehicle does not violate Subsection [(3)] (4).

89 (b) As soon as is reasonably possible, the operator of a school bus shall notify the  
90 driver's dispatcher and the dispatcher shall notify the owner of the railroad track where the  
91 grade crossing signal device is located of the false activation or malfunction.

92 [(3)] (4) (a) A person may not drive a vehicle through, around, or under a crossing gate  
93 or barrier at a railroad grade crossing [~~while the gate or barrier is closed or is being opened or~~  
94 ~~closed~~] if the railroad grade crossing is active.

95 (b) A person may not cause a non-rail vehicle, whether or not occupied, to pass  
96 through, around, over, or under or remain on a gate or barrier at a railroad grade crossing if the  
97 railroad grade crossing is active.

98 (c) A person may not cause a non-rail vehicle, whether or not occupied, to pass around,  
99 through, over, or under or remain in a rail or fixed guideway right-of-way in a manner that  
100 would cause a railroad train or other rail vehicle to make contact with the non-rail vehicle.

101 Section 4. Section **76-6-106** is amended to read:

102 **76-6-106. Criminal mischief.**

103 (1) As used in this section, "critical infrastructure" includes:

104 (a) information and communication systems;

105 (b) financial and banking systems;

106 (c) any railroads, airlines, airports, airways, highways, bridges, waterways, fixed  
107 guideways, or other transportation systems intended for the transportation of persons or  
108 property;

109 (d) any public utility service, including the power, energy, and water supply systems;

110 (e) sewage and water treatment systems;

111 (f) health care facilities as listed in Section 26-21-2, and emergency fire, medical, and  
112 law enforcement response systems;

113 (g) public health facilities and systems;

114 (h) food distribution systems; and

115 (i) other government operations and services.

116 (2) A person commits criminal mischief if the person:

117 (a) under circumstances not amounting to arson, damages or destroys property with the  
118 intention of defrauding an insurer;

119 (b) intentionally and unlawfully tampers with the property of another and as a result:

120 (i) recklessly endangers:

121 (A) human life; or

122 (B) human health or safety; or

123 (ii) recklessly causes or threatens a substantial interruption or impairment of any  
124 critical infrastructure;

125 (c) intentionally damages, defaces, or destroys the property of another; or

126 (d) recklessly or willfully shoots or propels a missile or other object at or against a  
127 motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving  
128 or standing.

129 (3) (a) (i) A violation of Subsection (2)(a) is a third degree felony.

130 (ii) A violation of Subsection (2)(b)(i)(A) is a class A misdemeanor.

131 (iii) A violation of Subsection (2)(b)(i)(B) is a class B misdemeanor.

132 (iv) A violation of Subsection (2)(b)(ii) is a second degree felony.

133 (b) Any other violation of this section is a:

134 (i) second degree felony if the actor's conduct causes or is intended to cause pecuniary  
135 loss equal to or in excess of \$5,000 in value;

136 (ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary  
137 loss equal to or in excess of \$1,500 but is less than \$5,000 in value;

138 (iii) class A misdemeanor if the actor's conduct causes or is intended to cause  
139 pecuniary loss equal to or in excess of \$500 but is less than \$1,500 in value; and

140 (iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary  
141 loss less than \$500 in value.

142 (4) In determining the value of damages under this section, or for computer crimes  
143 under Section 76-6-703, the value of any item, computer, computer network, computer  
144 property, computer services, software, or data includes the measurable value of the loss of use  
145 of the items and the measurable cost to replace or restore the items.

146 (5) In addition to any other penalty authorized by law, a court shall order any person  
147 convicted of any violation of this section to reimburse any federal, state, or local unit of  
148 government, or any private business, organization, individual, or entity for all expenses  
149 incurred in responding to a violation of Subsection (2)(b)(ii), unless the court states on the

150 record the reasons why the reimbursement would be inappropriate.