

SB0127S01 compared with SB0127

~~deleted text~~ shows text that was in SB0127 but was deleted in SB0127S01.

inserted text shows text that was not in SB0127 but was inserted into SB0127S01.

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Senator Karen Mayne proposes the following substitute bill:

TRANSPORT OF RAILROAD EMPLOYEES

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Transportation Code by enacting provisions related to contract motor carriers of railroad employees.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ establishes requirements for vehicle operators who transport railroad employees;
- ▶ establishes requirements for motor vehicles used to transport railroad employees;
- ▶ provides that a person is subject to a class C misdemeanor for violating a Railroad Employee Safe Transportation Act provision; and
- ▶ provides that a contract railroad employee motor carrier or a vehicle operator is subject to civil penalties for violating a Railroad Employee Safe Transportation Act

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provision.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

72-9-801, Utah Code Annotated 1953

72-9-802, Utah Code Annotated 1953

72-9-803, Utah Code Annotated 1953

72-9-804, Utah Code Annotated 1953

72-9-805, Utah Code Annotated 1953

72-9-806, Utah Code Annotated 1953

72-9-807, Utah Code Annotated 1953

72-9-808, Utah Code Annotated 1953

72-9-809, Utah Code Annotated 1953

72-9-810, Utah Code Annotated 1953

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

Section 1. Section **72-9-801** is enacted to read:

Part 8. Railroad Employee Safe Transportation Act

72-9-801. Title.

This part is known as the "Railroad Employee Safe Transportation Act."

Section 2. Section **72-9-802** is enacted to read:

72-9-802. Definitions.

As used in this section:

(1) (a) "Contract railroad employee motor carrier" means an owner of a business engaged in transporting railroad employees as passengers in a motor vehicle designed to carry ~~15~~eight or fewer passengers, including the driver, on a highway within the state.

(b) "Contract railroad employee motor carrier" does not mean a railroad company that uses vehicles owned by the railroad company and operated by railroad employees to transport

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railroad employees.

(2) ~~{(a)}~~ "On-duty time" means ~~{all time spent by a vehicle operator at a terminal, facility, or other property of a contract railroad passenger motor carrier or on any public property waiting to be dispatched.~~

~~— (b) "On-duty time" includes time spent by a vehicle operator:~~

~~— (i) driving a contracted motor vehicle, even if no passengers are on board the motor vehicle; and~~

~~— (ii) performing any other service for a contract railroad employee motor carrier, or an associated business, during a 24-hour period}~~ the same as that term is defined in 49 C.F.R. Part 395.

(3) "Railroad" means the same as that term is defined in Section 41-6a-102.

(4) "Railroad company" means a company that operates a railroad within the state.

(5) "Railroad employee" means an employee in the course of an employee's employment with a railroad company.

(6) "Serious traffic violation" means a conviction of any of the following:

(a) speeding 15 or more miles per hour above the posted speed limit;

(b) reckless driving as defined in Section 41-6a-528;

(c) an improper or erratic traffic lane change;

(d) following the vehicle ahead too closely; or

(e) any other motor vehicle traffic law that arises in connection with a fatal traffic accident.

(7) "Vehicle operator" means an individual who owns or is employed by a contract railroad employee motor carrier and who operates a motor vehicle to transport railroad employees for a contract railroad employee motor carrier.

Section 3. ~~{Section 72-9-803}~~ Section 72-9-803 is enacted to read:

72-9-803. Information lettered on vehicle.

(1) A contract railroad employee motor carrier shall display the name of the owner and the words "contract railroad employee motor carrier" on both sides of any vehicle used to transport railroad employees.

(2) The contract railroad employee motor carrier shall ensure that the information described in Subsection (1) is free from obstruction and legible from a distance of at least 50

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feet.

(3) A contract railroad employee motor carrier shall register as a contract railroad employee motor carrier with the department.

(4) In addition to the information required under Subsection (1), the department may require an identification number assigned by the department to be displayed in accordance with Subsection (1).

Section 4. Section 72-9-804 is enacted to read:

72-9-804. Department duties.

(1) The department shall administer and, in cooperation with the Utah Highway Patrol Division, Department of Public Safety, as specified under Section 53-8-105, enforce this part.

(2) The department shall register a contract railroad employee motor carrier as described in Section 72-9-803.

(3) The department shall conduct compliance audits and inspections as needed to enforce this part.

(4) A contract railroad employee motor carrier shall submit its vehicles and equipment for inspection and examination and shall submit its books, log books, reports, records, and documents for inspection and copying in accordance with this part.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to implement and manage this part.

Section 5. Section 72-9-805 is enacted to read:

~~72-9-803~~72-9-805. Vehicle operator qualifications.

(1) A contract railroad employee motor carrier shall ensure that every vehicle operator who drives for the contract railroad employee motor carrier has a valid driver license.

(2) A contract railroad employee motor carrier shall:

(a) ensure that every vehicle operator for the contract railroad employee motor carrier is ~~annually examined for hearing, vision, and any medical condition or drug use, either legal or illegal, that could cause impairment while driving~~ physically qualified to operated a vehicle as if the vehicle operator is operating a commercial motor vehicle, in accordance with 49 C.F.R. Part 391.41:

(b) implement a mandatory alcohol and controlled substance testing program that consists of preemployment, postaccident, random, and reasonable suspicion testing, ~~conducted~~

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by a federally certified or licensed physician or clinic;

(c) preserve and maintain records of examinations, tests, log books, hours of service, and vehicle inspections at the contract railroad employee motor carrier's registered place of business in the state; and

(d) implement a policy that provides for annual training and certification of every vehicle operator for the contract railroad employee motor carrier in:

(i) safe operation of a vehicle transporting railroad employees;

(ii) relevant laws and rules of the road;

(iii) handling emergencies;

(iv) proper use of seat belts; and

(v) vehicle inspections and inspection record keeping.

(3) A contract railroad employee motor carrier may not permit or require a vehicle operator who drives for the contract railroad employee motor carrier to operate a motor vehicle if the vehicle operator has committed two or more serious traffic violations within the previous three years.

Section ~~{4}~~6. Section ~~{72-9-804}~~72-9-806 is enacted to read:

~~{72-9-804}~~72-9-806. **Requirements for motor vehicles.**

(1) A contract railroad employee motor carrier shall maintain, or require every vehicle operator who drives for the contract railroad employee motor carrier to maintain, current motor vehicle registration in accordance with Title 41, Chapter 1a, Motor Vehicle Act.

(2) (a) A contract railroad employee motor carrier shall conduct, or require every vehicle operator who drives for the contract railroad employee motor carrier to conduct, a vehicle inspection on each vehicle at the end of each working day.

(b) A contract railroad employee motor carrier shall prepare or require every vehicle operator who drives for the contract railroad employee motor carrier to prepare a written vehicle inspection report ~~{for each}~~if the vehicle ~~{inspected in accordance}~~operator discovers a defect or deficiency with ~~{Subsection (2)(a)}~~the vehicle.

(c) A vehicle inspection report shall list the condition of the vehicle and shall specify any repairs needed.

(d) Prior to operating a motor vehicle to transport a railroad employee, a vehicle operator shall repair any items listed on the vehicle inspection report that would likely affect

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the safe operation of the motor vehicle.

(e) A vehicle inspection shall ensure that each motor vehicle is maintained in a safe manner, including the following parts and equipment:

- (i) service and parking brakes;
- (ii) lighting devices and reflectors;
- (iii) exhaust system;
- (iv) rear vision mirrors;
- (v) steering;
- (vi) tires, wheels, and rims;
- (vii) horn;
- (viii) windshield and windshield wipers;
- (ix) emergency and first-aid equipment; and
- (x) heating equipment capable of maintaining a reasonable temperature in passenger

areas.

(f) A contract railroad employee motor carrier shall retain the original copy of each vehicle inspection report and the certification of repairs for at least six months after the day on which the report is prepared.

Section ~~{5}~~7. Section ~~{72-9-805}~~72-9-807 is enacted to read:

~~{72-9-805}~~72-9-807. **Insurance.**

A contract railroad employee motor carrier shall maintain, or require every vehicle operator to maintain:

- (1) motor vehicle liability coverage in a minimum amount of ~~{5}~~2,000,000; and
- (2) uninsured and underinsured motor vehicle coverage in a minimum amount of

\$1,000,000.

Section ~~{6}~~8. Section ~~{72-9-806}~~72-9-808 is enacted to read:

~~{72-9-806}~~72-9-808. **Hours of service.**

- (1) ~~{(a)}~~ Except as provided in Subsection (2), a vehicle operator may not drive:
 - ~~{(i)}~~a more than ~~{14}~~10 hours following eight consecutive hours off duty; or
 - ~~{(ii)}~~b if the total number of hours of on-duty time exceeds 70 hours in a period of

eight consecutive days.

~~{~~ (b) If a vehicle operator accrues less than 14 hours of on-duty time during the vehicle

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~~operator's initial shift, the vehicle operator may return to work after four hours off duty in a place of lodging to complete the remainder of the vehicle operator's 14 hours of on-duty time.~~

† (2) In the event of an emergency or unforeseeable delay, a vehicle operator may drive for up to two hours above the hours described in Subsection (1) to complete an assignment or to deliver passengers to a safe location.

(3) (a) Each vehicle operator shall maintain and keep current a daily log book detailing the hours worked.

(b) Each vehicle operator shall keep the log book in the vehicle operator's possession at all times when on duty and shall include the daily logs for the past 30 working days.

(c) The log book shall be made available for inspection upon the request of the department, a law enforcement officer, or a passenger.

(4) A contract railroad employee motor carrier shall maintain and retain, for a period of six months, accurate time records showing:

(a) the time the vehicle operator reports for duty each day;

(b) the total number of hours the vehicle operator is on duty each day; and

(c) the time the vehicle operator is released from duty each day.

Section ~~{7}9~~. Section ~~{72-9-807}~~72-9-809 is enacted to read:

~~{~~ ~~72-9-807. Access to facilities and records.~~

~~_____ (1) Except as provided in Subsection (2), the department's authorized employees or agents may enter, inspect, and examine any lands, buildings, and equipment of a contract railroad employee motor carrier subject to this part, to inspect and copy any accounts, books, records, and documents in order to administer and enforce the provisions of this part related to the operation of a contract railroad employee motor carrier, provided that the department's authorized employees or agents schedule an appointment with the contract railroad employee motor carrier prior to entering, inspecting, or examining any facility or records of a contract railroad employee motor carrier.~~

~~_____ (2) If the department's authorized employees or agents believe that a criminal violation is involved and that a scheduled appointment would compromise the detection of the alleged criminal violation, no appointment is necessary for entrance to a contract railroad employee motor carrier's lands, buildings, or equipment under Subsection (1).~~

~~_____ Section 8. Section ~~72-9-808~~ is enacted to read:~~

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~~†~~ ~~72-9-808~~ 72-9-809. Penalties.

A violation of any provision under this part by a contract railroad employee motor carrier or a vehicle operator or a failure to perform any act required under this part by a contract railroad employee motor carrier or a vehicle operator is a class C misdemeanor. Every violation of a provision of the Utah Constitution or statute is a separate and distinct offense.

Section ~~{9}~~ 10. Section ~~{72-9-809}~~ 72-9-810 is enacted to read:

~~72-9-809~~ 72-9-810. Civil penalties.

(1) In addition to any other penalties, a contract railroad employee motor carrier that fails or neglects to comply with any provision of the Utah Constitution, statute, or any rule or order of the department is subject to a civil penalty of not more than \$1,000 for each offense.

(2) (a) Every violation of a provision of the Utah Constitution, statute, or any rule or order of the department is a separate and distinct offense.

(b) Each day's continuance of a violation is a separate and distinct offense.

(3) (a) The department may reduce the civil penalty in a compromise with the person alleged to have committed a civil penalty under this section.

(b) In determining the amount of the penalty or the amount agreed upon in a compromise, the department shall consider the:

(i) gravity of the violation; and

(ii) good faith of the person charged in attempting to achieve compliance after notification of the violation.

(c) The amount of the penalty when finally determined or the amount agreed upon in a compromise may be deducted from any sums owed by the state to the person charged or may be recovered in a civil action in the courts of the state.

(4) In construing and enforcing the provisions of this part relating to penalties, the act, omission, or failure of an officer, agent, or employee of a contract railroad employee motor carrier, acting within the scope of the person's official duties or employment, is considered to be the act, omission, or failure of the contract railroad employee motor carrier.

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Legislative Review Note

~~as of 1-29-15 6:50 PM~~

~~Office of Legislative Research and General Counsel~~