

Representative Elizabeth Weight proposes the following substitute bill:

RAILROAD WORKER SAFETY AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Elizabeth Weight

Senate Sponsor: _____

LONG TITLE

General Description:

This bill establishes safety standards for walkways adjacent to railroad tracks.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a railroad to:
 - provide a walkway adjacent to tracks in all areas where railroad or industrial employees are required to perform trackside duties;
 - keep each walkway clean and free of vegetation, debris, and other materials, equipment, and other hazards, that might tend to interfere with the footing of railroad or industrial employees performing trackside duties; and
 - construct and maintain each walkway to insure proper drainage and prevent pooling of water, oil, or other liquids;
- ▶ exempts from the chapter an entity that provides public transit in this state;
- ▶ specifies standards for the construction and maintenance of railroad walkways;
- ▶ specifies exceptions to the railroad walkway construction and maintenance standards;
- ▶ grants the Department of Transportation rulemaking authority to establish additional



26 construction and maintenance standards;

27 ▶ requires a railroad to furnish the Department of Transportation with any necessary

28 information and allow inspections by the department for the enforcement of the

29 railroad walkway standards; and

30 ▶ specifies procedures and penalties for the enforcement of the railroad walkway

31 construction and maintenance standards.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 ENACTS:

- 38 56-4-101, Utah Code Annotated 1953
- 39 56-4-102, Utah Code Annotated 1953
- 40 56-4-103, Utah Code Annotated 1953
- 41 56-4-104, Utah Code Annotated 1953
- 42 56-4-105, Utah Code Annotated 1953
- 43 56-4-106, Utah Code Annotated 1953
- 44 56-4-107, Utah Code Annotated 1953



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

47 Section 1. Section **56-4-101** is enacted to read:

48 **CHAPTER 4. RAILROAD WORKER SAFETY ACT**

49 **56-4-101. Title.**

50 This chapter is known as the "Railroad Worker Safety Act."

51 Section 2. Section **56-4-102** is enacted to read:

52 **56-4-102. Definitions.**

53 As used in this chapter:

54 (1) "Department" means the Department of Transportation established in Section

55 72-1-201.

56 (2) "Public transit" means the same as that term is defined in Section 17B-2a-802.

57 (3) "Railroad" means the same as that term is defined in 49 U.S.C. Sec. 20102.

58 (4) "Trackside duties" means:

59 (a) switching or inspecting trains stopped by trackside detectors;

60 (b) performing air tests; or

61 (c) performing train inspections.

62 (5) "Walkway" means an area located alongside or in the vicinity of a railroad track, or
63 on a trestle or bridge, that provides space so a railroad employee can perform duties associated
64 with the track, trestle, or bridge. → *Conditions for waiver - lines 112-117* *

65 Section 3. Section 56-4-103 is enacted to read:

66 **56-4-103. Railroad walkway safety requirements.**

67 (1) A railroad corporation shall:

68 (a) provide a walkway adjacent to tracks in all areas where railroad or industrial
69 employees are required to perform trackside duties;

70 (b) maintain each walkway in a safe condition, clear of vegetation, debris, standing
71 water, and other obstructions, equipment, and hazards that might tend to interfere with the
72 footing of railroad or industrial employees performing trackside duties; and

73 (c) construct and maintain each walkway in accordance with the requirements of this
74 section to ensure proper drainage and prevent pooling of water, oil, or other liquids.

75 (2) A walkway shall:

76 (a) be constructed to a minimum width of eight feet and six inches, as measured from
77 the centerline of the track;

78 (b) have a uniform regular surface with a gradual slope not to exceed one inch of
79 elevation for each eight inches of horizontal length in any direction; and

80 (c) be constructed and maintained in such a manner that the elevation of the walkway's
81 top surface is at least level with the top of ties, but not higher than the top of rail.

82 (3) A walkway shall be located:

83 (a) on both sides of track with a minimum distance of 125 feet on each side of every
84 switch stand or other trackside switch-throwing mechanism; and

85 (b) around all derail switch stands.

86 (4) (a) A walkway may be surfaced with:

87 (i) asphalt;

⋮

Options for surface materials

- 88 (ii) concrete;
- 89 (iii) planking;
- 90 (iv) grating;
- 91 (v) native material;
- 92 (vi) AREMA Standard 57 ballast; or
- 93 (vii) other similar material.

} Options for surface materials

94 (b) If a walkway is located in an area where crews are working in the area two or more
 95 days per week, including walkways within one mile of a train yard or manually operated
 96 switches, the uniform surface material used shall be no larger than 3/8 inch fine.

97 (5) The area between tracks shall be kept clean and free from all foreign materials that
 98 tend to build up between rails causing poor footing and deterioration of track components.

99 (6) (a) Walkway standards described in this section do not apply to a walkway adjacent
 100 to:

- 101 (i) tracks in a street or tunnel;
- 102 (ii) an existing bridge;
- 103 (iii) a grade separation structure;
- 104 (iv) a railroad-highway crossing;
- 105 (v) an existing trestle;
- 106 (vi) a cattle guard; or
- 107 (vii) tracks during periods of damage or obstruction due to heavy rain or snow,
 108 derailments, rock and earth slides, and other noncompliance that may exist during an
 109 emergency.

110 (b) A walkway described in Subsection (6)(a)(vii) shall be brought back into
 111 compliance with this section within 30 days after the damage or obstruction occurred.

112 (c) A railroad corporation shall seek a waiver from compliance to relevant walkway
 113 standards described in this section if the walkway is adjacent to:

- 114 (i) tracks adjacent to a walk, abutment, platform, pillar, or structure where minimum
 115 widths are not available; or
- 116 (ii) tracks where there is insufficient width of right-of-way, except that standards in this
 117 section shall apply to the full width of right-of-way available.

118 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

119 department may adopt rules governing safe walkways for railroad workers in areas where work
120 is regularly performed on the ground.

121 Section 4. Section **56-4-104** is enacted to read:

122 **56-4-104. Duty of railroads to comply -- Inspection by department.**

123 (1) A railroad corporation shall:

124 (a) comply with any regulation or order of the department issued under the provisions
125 of this chapter; and

126 (b) furnish any information required by the department for purposes of this chapter.

127 (2) The department or the department's authorized agent may, during reasonable hours,
128 enter the place of operation of a railroad to determine whether a railroad is complying with the
129 standards prescribed by this chapter.

130 (3) This chapter does not apply to an entity that provides public transit in this state.

131 Section 5. Section **56-4-105** is enacted to read:

132 **56-4-105. Agency actions.**

133 (1) Subject to Subsection (2), an employee may file a request for agency action with
134 the department alleging a violation of:

135 (a) this chapter; or

136 (b) a department rule made in accordance with Subsection 56-4-103(7). [LINE 66 ...]

137 * (2) (a) An employee may not file a request for agency action of an alleged violation of
138 this chapter unless the employee has attempted to address the alleged allegations with the
139 railroad corporation. FIRST STEP: The employee goes through the company process

140 * (b) Any request for agency action alleging a violation of this chapter shall contain a
141 written statement that the employee filing the request for agency action has made a reasonable,
142 good faith attempt to address the alleged violation with the railroad corporation.

143 (3) The department may initiate an action by filing a notice of agency action.

144 Section 6. Section **56-4-106** is enacted to read:

145 **56-4-106. Judicial review.**

146 (1) A party aggrieved by an order of the department may obtain judicial review.

147 (2) Venue for judicial review of informal adjudicative proceedings under this chapter is
148 in the district court of the county in which the place of employment is located.

149 Section 7. Section **56-4-107** is enacted to read:

NEW
IN
SUB 1

STATE AGENCY
INVOLVEMENT...
only with written
statement of
interaction with
the
company

150 56-4-107. Failure to comply with order or regulation -- Penalty.

151 (1) A railroad corporation failing to comply with an order or regulation of the
152 department authorized by this chapter shall be liable for a penalty of \$1,500 for each day of
153 noncompliance.

154 (2) The attorney general shall file suit on behalf of the state for any unpaid penalty
155 within one year after the penalty accrues.