

Chapter 2

Movement of Defective Rolling Stock and Fencing Right-of-Way

56-2-1 Definitions.

As used in this chapter:

- (1) "Broken or defective" means any defects in the wheels, trucks, draft gears, couplers, brakes, draft and center sills, of any car, coach, locomotive, or other rolling stock of a railroad company and every other defect in any car, coach, locomotive or other rolling stock which would be dangerous to the public or to any employee of a railroad company while said car is being moved, hauled or transported.
- (2) "Local yard service" means the movement of any car, coach, locomotive or other rolling stock in the railroad yards of any railroad company and between the railroad yards of one or more railroad companies where the distance does not exceed eight miles.

Amended by Chapter 92, 1987 General Session

56-2-2 Movement of defective rolling stock prohibited -- Exceptions.

It shall be unlawful for any railroad corporation operating or in control of the operation of any railroad within the state of Utah to haul or transport or cause to be hauled or transported any broken or defective car, coach, locomotive or other rolling stock owned, leased or controlled by said railroad company or any broken or defective car, coach, locomotive or other rolling stock in the control or subject to the orders of said railroad company within the state of Utah, except that this act shall not apply to prevent the movement of such defective cars or equipment in case of fire, strikes or by an act of God where the movement of such defective equipment is required by any statute of the Congress of the United States, or where such cars or equipment are loaded for movement and will not move on their own wheels in such transportation. This act shall not be applicable to the movement of defective cars or equipment in local yard service or where the defects in the rolling stock shall occur while in transit, but such defective cars and equipment shall not be moved or transported a greater distance than the nearest repair point within this state where said company maintains shops equipped to repair such defect.

No Change Since 1953

56-2-3 Penalties.

Every railroad corporation guilty of transporting defective cars or equipment within the state is guilty of a class B misdemeanor. Every offense is punishable by a fine not less than \$250, and the person or employee of the corporation responsible for permitting the broken or defective car to go into transit and to be transported within the state of Utah is guilty of a class A misdemeanor.

Amended by Chapter 241, 1991 General Session

56-2-4 Enforcement of provisions.

The Department of Transportation shall investigate and the Public Service Commission of Utah is hereby required to enforce the provisions of this act, within their respective jurisdictions, and for such purposes are hereby authorized to employ such necessary officials, investigators and inspectors as shall be necessary to provide for the enforcement thereof. And said commission

and department are hereby empowered to prescribe the salaries and duties of such officers, investigators and inspectors.

Amended by Chapter 9, 1975 Special Session 1

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56-2-5 Construction of chapter.

It is hereby declared that this act is passed for the purpose of preserving the safety of the public and of employees engaged in the service of railroad companies and to render less dangerous the performance of duties of such employees.

No Change Since 1953

56-2-6 Fencing rights of way to protect livestock -- Power of Public Service Commission to require.

The Public Service Commission shall have the jurisdiction and authority to require every railroad company or corporation operating any steam or electric railroad in this state to erect and maintain fences on each side or either side of such railroad, where such railroad is not now required by law to erect and maintain fences, at such places as the commission shall determine such fences to be necessary to protect sheep, cattle, horses or mules or any other domestic animal being driven, ranged or grazed upon lands adjacent to such railroad from being wounded, maimed or killed by the operation or management of engines, cars or other rolling stock upon or over such railroad, with necessary openings and gates in such fences, and crossings and cattle guards.

No Change Since 1953

56-2-7 Exercise of fencing power by commission -- Necessity of application by livestock owners.

The Public Service Commission may exercise the jurisdiction and authority granted in Section 56-2-6 only when at least three persons with the right to drive, range, or graze sheep, cattle, horses, or mules upon land adjacent to the portion of the railroad sought to be fenced file a request for agency action with the Public Service Commission.

Amended by Chapter 92, 1987 General Session

Amended by Chapter 161, 1987 General Session

56-2-8 Contents of livestock owners' application for fencing.

In addition to the information required by Title 63G, Chapter 4, Administrative Procedures Act, the request for agency action shall:

- (1) identify the lands;
- (2) identify the name and address of the owner of the lands;
- (3) if any of the lands are owned by the United States or the state of Utah, designate the agency or department of government that administers the lands;
- (4) identify the nature of the right of each petitioner to drive, range, or graze sheep, cattle, horses, or mules on the lands; and
- (5) specify the ownership of the railroad sought to be fenced.

Amended by Chapter 382, 2008 General Session

56-2-11 Modification or revocation of commission's orders requiring fencing.

Such commission shall also have the jurisdiction and authority to modify or revoke any such order when upon its determination the necessity for any such fence shall cease to exist.

No Change Since 1953

56-2-12 Liability for railroad's noncompliance with commission's fencing orders.

The failure of any railroad company or corporation to comply with any order of the commission authorized by this act shall not subject such noncomplying railroad company or corporation, or any of its officers, agents or employees, to any of the penalties prescribed in Sections 54-7-25 and 54-7-26, Utah Code Annotated 1953, but shall subject such company or corporation to the liability prescribed by Section 56-1-13, Utah Code Annotated 1953.

No Change Since 1953