

**72-5-306 Assumption of risk -- Immunity -- Public safety.**

- (1) An R.S. 2477 right-of-way not designated under Section 72-3-102, 72-3-103, or 72-3-104 as a Class A, B, or C road is traveled at the risk of the user.
- (2) The state and its political subdivisions do not waive immunity under Title 63G, Chapter 7, Governmental Immunity Act of Utah, for injuries or damages occurring in or associated with any R.S. 2477 right-of-way.
- (3) The state and its political subdivisions assume no liability for injury or damage resulting from a failure to maintain any:
  - (a) R.S. 2477 right-of-way for vehicular travel; or
  - (b) highway sign on an R.S. 2477 right-of-way.
- (4) If the state or any political subdivision of the state chooses to maintain an R.S. 2477 right-of-way, the basic governmental objective involved in providing the improvements is the consistent promotion of public safety.
- (5)
  - (a) The state recognizes that there are limited funds available to upgrade all R.S. 2477 rights-of-way to applicable safety standards.
  - (b) A decision by the state or a political subdivision of the state to allocate funds for maintaining an R.S. 2477 right-of-way is the result of evaluation and assigning of priorities for the promotion of public safety.
  - (c) The state or a political subdivision of the state must use its judgment and expertise to evaluate which safety feature improvements should be made first. In making this policy determination the state or a political subdivision of the state may:
    - (i) perform on-site inspections and weigh all factors relating to safety, including the physical characteristics and configuration of the R.S. 2477 right-of-way and the volume and type of traffic on the R.S. 2477 right-of-way; and
    - (ii) consult with transportation experts who have expertise to make an evaluation of the relative dangerousness of R.S. 2477 rights-of-way within their jurisdiction.

Amended by Chapter 382, 2008 General Session