

**PROTECTION OF RIGHTS-OF-WAY - GATES  
ON COUNTY ROADS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Michael E. Noel**

**This act modifies the Transportation Code by redefining county road and allowing counties to erect gates on class D roads. This act makes technical changes.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**72-7-106**, as last amended by Chapter 21, Laws of Utah 1999

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

Section 1. Section **72-7-106** is amended to read:

**72-7-106. Gates on class B and D roads.**

(1) As used in this section, "county road" means:

(a) a class B road as defined in Section 72-3-103; and

(b) a class D road as defined in Section 72-3-105.

~~[(1)]~~ (2) The county executive of ~~[any]~~ a county may ~~[provide for]~~ authorize the erection ~~[and]~~ or maintenance of ~~[gates]~~ a gate on ~~[the B-system]~~ a county ~~[highways]~~ road in order to avoid the necessity of building highway fences.

~~[(2)]~~ (3) The person for whose immediate benefit ~~[the gates are]~~ a gate is erected or maintained shall in all cases bear the expense.

~~[(3)]~~ (4) Nothing contained in Section 72-7-105 shall be construed to prohibit ~~[any]~~ a person from placing ~~[any]~~ an unlocked, nonrestrictive gate across ~~[any B-system]~~ a county ~~[highway]~~ road, or maintaining the same, with the ~~[approval]~~ authorization of the county executive of that county.

~~[(4)]~~ (5) (a) A gate ~~[may not be]~~ is not allowed on ~~[any B-system]~~ a county ~~[highways except those gates allowed]~~ road unless authorized by the county executive in accordance with the provisions of this section.

(b) If the expense of the erection and maintenance of the ~~[allowed gates]~~ gate is not

paid or if ~~[any]~~ a lock or other device is placed upon the ~~[gates]~~ gate so as to make ~~[them]~~ it restrictive, the county executive of that county shall notify the responsible party that ~~[their]~~ county approval is terminated and the gate ~~[shall be]~~ is considered to be an obstruction ~~[pursuant to]~~ under Section 72-7-105.

~~[(5)]~~ (6) The placement or maintenance of ~~[gates]~~ a gate with the ~~[consent]~~ authorization of the county executive across ~~[B-system]~~ a county ~~[highways for the statutory period of time]~~ road does not constitute or establish an abandonment under Section 72-5-105 or 72-5-305 by the county and does not establish an easement on behalf of the person establishing the gate.

~~[(6)]~~ (7) A person who commits any of the following acts is guilty of a class B misdemeanor and is liable for ~~[any and]~~ all damages suffered by ~~[any]~~ a party as a result of the acts:

- (a) ~~[leave]~~ leaves open ~~[any]~~ a gate, erected or maintained under this section;
- (b) unnecessarily ~~[drive]~~ drives over the ground adjoining the highway on which a gate is erected;
- (c) ~~[place any]~~ places a lock or other restrictive device on a gate; or
- (d) ~~[violate any rules or regulations of any]~~ violates a rule or regulation of a county legislative body relating to the gates within the county.

~~[(7)]~~ ~~The provisions of this section relating to maintenance and removal of gates over B system county highways applies retrospectively to all gates in existence on April 1, 1976.]~~