

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

3 2003 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Michael E. Noel**

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

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

9 AMENDS:

10 **72-7-106**, as last amended by Chapter 21, Laws of Utah 1999

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

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

13 **72-7-106. Gates on class B and D roads.**

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

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

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

17 ~~[(1)]~~ (2) The county executive of ~~[any]~~ a county may ~~[provide for]~~ authorize the
18 erection ~~[and]~~ or maintenance of ~~[gates]~~ a gate on ~~[the B-system]~~ a county ~~[highways]~~ road in
19 order to avoid the necessity of building highway fences.

20 ~~[(2)]~~ (3) The person for whose immediate benefit ~~[the gates are]~~ a gate is erected or
21 maintained shall in all cases bear the expense.

22 ~~[(3)]~~ (4) Nothing contained in Section 72-7-105 shall be construed to prohibit ~~[any]~~ a
23 person from placing ~~[any]~~ an unlocked, nonrestrictive gate across ~~[any B-system]~~ a county
24 ~~[highway]~~ road, or maintaining the same, with the ~~[approval]~~ authorization of the county
25 executive of that county.

26 ~~[(4)]~~ (5) (a) A gate ~~[may not be]~~ is not allowed on ~~[any B-system]~~ a county ~~[highways~~
27 ~~except those gates allowed]~~ road unless authorized by the county executive in accordance with



28 the provisions of this section.

29 (b) If the expense of the erection and maintenance of the ~~[allowed-gates]~~ gate is not
30 paid or if ~~[any]~~ a lock or other device is placed upon the ~~[gates]~~ gate so as to make ~~[them]~~ it
31 restrictive, the county executive of that county shall notify the responsible party that ~~[their]~~
32 county approval is terminated and the gate ~~[shall be]~~ is considered to be an obstruction
33 ~~[pursuant to]~~ under Section 72-7-105.

34 ~~[(5)]~~ (6) The placement or maintenance of ~~[gates]~~ a gate with the ~~[consent]~~
35 authorization of the county executive across ~~[B-system]~~ a county ~~[highways]~~ road for the
36 ~~[statutory]~~ period of time specified in Section 72-5-104 does not constitute or establish an
37 abandonment under Section 72-5-305 by the county and does not establish an easement on
38 behalf of the person establishing the gate.

39 ~~[(6)]~~ (7) A person who commits any of the following acts is guilty of a class B
40 misdemeanor and is liable for ~~[any and]~~ all damages suffered by ~~[any]~~ a party as a result of the
41 acts:

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

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

Legislative Review Note
as of 1-29-03 10:23 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0242

Protection of Rights-Of-Way - Gates on County Roads

10-Feb-03

11:31 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst