

1 **TRANSPORTATION ADMINISTRATIVE RULES**
2 **- CRIMINAL AND CIVIL PENALTY**
3 **AMENDMENTS**

4 2008 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Todd E. Kiser**

7 Senate Sponsor: Carlene M. Walker

8
9 **LONG TITLE**

10 **Committee Note:**

11 The Transportation Interim Committee recommended this bill.

12 **General Description:**

13 This bill modifies the Transportation Code by amending provisions that grant authority
14 to enforce or provide procedures for enforcing administrative rules.

15 **Highlighted Provisions:**

16 This bill:

17 ▶ authorizes the Department of Transportation to enforce the provisions of the
18 Junkyard Control Act or rules made under the Junkyard Control Act through
19 administrative procedures;

20 ▶ repeals the authority of the Department of Transportation to specify by
21 administrative rule conduct that may constitute a misdemeanor or felony in the
22 Transportation Code; and

23 ▶ makes technical changes.

24 **Monies Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **72-7-208**, as renumbered and amended by Laws of Utah 1998, Chapter 270

31 **72-7-302**, as renumbered and amended by Laws of Utah 1998, Chapter 270

32 **72-7-402**, as last amended by Laws of Utah 2002, Chapter 151

33 **72-7-407**, as last amended by Laws of Utah 2005, Chapter 2

34 **72-7-409**, as last amended by Laws of Utah 1998, Chapter 224 and renumbered and
35 amended by Laws of Utah 1998, Chapter 270

36 **72-9-701**, as renumbered and amended by Laws of Utah 1998, Chapter 270

37 **72-10-120**, as last amended by Laws of Utah 1998, Chapter 365 and renumbered and
38 amended by Laws of Utah 1998, Chapter 270

39 REPEALS:

40 **72-7-211**, as renumbered and amended by Laws of Utah 1998, Chapter 270



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

43 Section 1. Section **72-7-208** is amended to read:

44 **72-7-208. Junkyard operated in violation of provisions is public nuisance --**
45 **Abatement -- Adjudicative proceedings -- Judicial review -- Costs of abatement.**

46 (1) The establishment, operation, or maintenance of any junkyard contrary to the
47 provisions of this part is a public nuisance~~[-, and the department, with the advice of the attorney~~
48 ~~general, may apply to the district court of the county in which the junkyard is located for an~~
49 ~~injunction to abate the nuisance].~~

50 ~~[(2) A correction notice of 30 days shall be given the owner prior to filing for an~~
51 ~~injunction to abate the nuisance.]~~

52 ~~[(3) A notice is not required prior to filing a misdemeanor complaint under Section~~
53 ~~72-7-211.]~~

54 (2) The department shall:

55 (a) enforce the provisions of this part or rules of the department made under this part;

56 and

57 (b) except as provided in Subsection (3) and in its enforcement of the provisions of this
58 part, comply with the procedures and requirements of Title 63, Chapter 46b, Administrative

59 Procedures Act.

60 (3) (a) The district court shall have jurisdiction to review by trial de novo all final
 61 orders of the department under this part resulting from formal and informal adjudicative
 62 proceedings.

63 (b) Venue for judicial review of final orders of the department shall be in the county in
 64 which the junkyard is located.

65 (4) If the department is granted a judgment, the department is entitled to have any
 66 nuisance abated and recover from the responsible person, firm, or corporation, jointly and
 67 severally:

68 (a) the costs and expenses incurred in abating the nuisance; and

69 (b) \$10 for each day the junkyard was maintained following the expiration of ten days
 70 after notice of agency action was filed and served under Section 63-46b-3.

71 Section 2. Section **72-7-302** is amended to read:

72 **72-7-302. Damage to signs, warnings, or barriers -- Penalty.**

73 (1) A person is guilty of a class B misdemeanor who ~~[(a) willfully violates any of the~~
 74 ~~rules of the department or the commission on the use of state highways or traffic on them; or~~
 75 ~~(b)]~~ willfully and unlawfully removes, defaces, or interferes with any highway sign, signal,
 76 notice, warning, or barrier.

77 (2) A person who commits an offense under Subsection (1) ~~[(b)]~~ that results in ~~[any]~~ an
 78 injury to [persons] a person or damage to property is guilty of a class A misdemeanor.

79 Section 3. Section **72-7-402** is amended to read:

80 **72-7-402. Limitations as to vehicle width, height, length, and load extensions.**

81 (1) (a) Except as provided by statute, all state or federally approved safety devices and
 82 any other lawful appurtenant devices, including refrigeration units, hitches, air line
 83 connections, and load securing devices related to the safe operation of a vehicle are excluded
 84 for purposes of measuring the width and length of a vehicle under the provisions of this part, if
 85 the devices are not designed or used for carrying cargo.

86 (b) Load-induced tire bulge is excluded for purposes of measuring the width of
 87 vehicles under the provisions of this part.

88 (c) Appurtenances attached to the sides or rear of a recreational vehicle that is not a
 89 commercial motor vehicle are excluded for purposes of measuring the width and length of the

90 recreational vehicle if the additional width or length of the appurtenances does not exceed six
91 inches.

92 (2) A vehicle unladen or with a load may not exceed a width of 8-1/2 feet.

93 (3) A vehicle unladen or with a load may not exceed a height of 14 feet.

94 (4) (a) (i) A single-unit vehicle, unladen or with a load, may not exceed a length of 45
95 feet including front and rear bumpers.

96 (ii) In this section, a truck tractor coupled to one or more semitrailers or trailers is not
97 considered a single-unit vehicle.

98 (b) (i) Except as provided under Subsection (4)(b)(iii), a semitrailer, unladen or with a
99 load, may not exceed a length of 48 feet excluding refrigeration units, hitches, air line
100 connections, and safety appurtenances.

101 (ii) There is no overall length limitation on a truck tractor and semitrailer combination
102 when the semitrailer length is 48 feet or less.

103 (iii) A semitrailer that exceeds a length of 48 feet but does not exceed a length of 53
104 feet may operate on a route designated by the department or within one mile of that route.

105 (c) (i) Two trailers coupled together, unladen or with a load, may not exceed an overall
106 length of 61 feet, measured from the front of the first trailer to the rear of the second trailer.

107 (ii) There is no overall length limitation on a truck tractor and double trailer
108 combination when the trailers coupled together measure 61 feet or less.

109 (d) All other combinations of vehicles, unladen or with a load, when coupled together,
110 may not exceed a total length of 65 feet, except the length limitations do not apply to
111 combinations of vehicles operated at night by a public utility when required for emergency
112 repair of public service facilities or properties, or when operated under a permit under Section
113 72-7-406.

114 (5) (a) Subject to Subsection (4), a vehicle or combination of vehicles may not carry
115 any load extending more than three feet beyond the front of the body of the vehicle or more
116 than six feet beyond the rear of the bed or body of the vehicle.

117 (b) A passenger vehicle may not carry any load extending beyond the line of the
118 fenders on the left side of the vehicle nor extending more than six inches beyond the line of the
119 fenders on the right side of the vehicle.

120 (6) Any exception to this section must be authorized by a permit as provided under

121 Section 72-7-406.

122 ~~[(7) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~
123 ~~the department shall make rules designating routes where a semitrailer that exceeds a length of~~
124 ~~48 feet but that does not exceed a length of 53 feet may operate as provided under Subsection~~
125 ~~(4)(b)(iii).]~~

126 [(8)] (7) Any person who violates this section is guilty of a class B misdemeanor.

127 Section 4. Section **72-7-407** is amended to read:

128 **72-7-407. Implements of husbandry -- Escort vehicle requirements -- Oversize**
129 **permit -- Penalty.**

130 (1) As used in this section, "escort vehicle" means a motor vehicle, as defined under
131 Section 41-1a-102, that has its emergency warning lights operating, and that is being used to
132 warn approaching motorists by either preceding or following a slow or oversized vehicle,
133 object, or implement of husbandry being moved on the highway.

134 (2) An implement of husbandry being moved on a highway shall be accompanied by:

135 (a) front and rear escort vehicles when the implement of husbandry is 16 feet in width
136 or greater unless the implement of husbandry is moved by a farmer or rancher or his employees
137 in connection with an agricultural operation; or

138 (b) one or more escort vehicles when the implement of husbandry is traveling on a
139 highway where special hazards exist related to weather, pedestrians, other traffic, or highway
140 conditions.

141 (3) In addition to the requirements of Subsection (2), a person may not move an
142 implement of husbandry on a highway during hours of darkness without lights and reflectors as
143 required under Section 41-6a-1608 or 41-6a-1609.

144 (4) (a) Except for an implement of husbandry moved by a farmer or rancher or the
145 farmer's or rancher's employees in connection with an agricultural operation, a person may not
146 move an implement of husbandry on the highway without:

147 (i) an oversize permit obtained under Section 72-7-406 if required;

148 (ii) trained escort vehicle drivers and approved escort vehicles when required under
149 Subsection (2); and

150 (iii) compliance with the vehicle weight requirements of Section 72-7-404.

151 (b) (i) The department shall issue an annual oversize permit for the purpose of allowing

152 the movement of implements of husbandry on the highways in accordance with this chapter.

153 (ii) The permit shall require the applicant to obtain verbal permission from the
154 department for each trip involving the movement of an implement of husbandry 16 feet or
155 greater in width.

156 [~~(c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~
157 ~~the department shall make rules specifying training for escort vehicle drivers and equipment~~
158 ~~requirements for escort vehicles as provided in Subsection (4)(a).]~~

159 (5) Any person who violates this section is guilty of a class B misdemeanor.

160 Section 5. Section **72-7-409** is amended to read:

161 **72-7-409. Loads on vehicles -- Limitations -- Confining, securing, and fastening**
162 **load required -- Penalty.**

163 (1) As used in this section:

164 (a) "Agricultural product" means any raw product which is derived from agriculture,
165 including silage, hay, straw, grain, manure, and other similar product.

166 (b) "Vehicle" has the same meaning set forth in Section 41-1a-102.

167 (2) A vehicle may not be operated or moved on any highway unless the vehicle is
168 constructed or loaded to prevent its contents from dropping, sifting, leaking, or otherwise
169 escaping.

170 (3) (a) In addition to the requirements under Subsection (2), a vehicle carrying dirt,
171 sand, gravel, rock fragments, pebbles, crushed base, aggregate, any other similar material, or
172 scrap metal shall have a covering over the entire load unless:

173 (i) the highest point of the load does not extend above the top of any exterior wall or
174 sideboard of the cargo compartment of the vehicle; and

175 (ii) the outer edges of the load are at least six inches below the top inside edges of the
176 exterior walls or sideboards of the cargo compartment of the vehicle.

177 (b) The following material is exempt from the provisions of Subsection (3)(a):

178 (i) hot mix asphalt;

179 (ii) construction debris or scrap metal if the debris or scrap metal is a size and in a form
180 not susceptible to being blown out of the vehicle;

181 (iii) material being transported across a highway between two parcels of property that
182 would be contiguous but for the highway that is being crossed; and

183 (iv) material listed under Subsection (3)(a) that is enclosed on all sides by containers,
184 bags, or packaging.

185 (c) A chemical substance capable of coating or bonding a load so that the load is
186 confined on a vehicle, may be considered a covering for purposes of Subsection (3)(a) so long
187 as the chemical substance remains effective at confining the load.

188 (4) Subsections (2) and (3) do not apply to a vehicle or implement of husbandry
189 carrying an agricultural product, if the agricultural product is:

190 (a) being transported in a manner which is not a hazard or a potential hazard to the safe
191 operation of the vehicle or to other highway users; and

192 (b) loaded in a manner that only allows minimal spillage.

193 (5) (a) An authorized vehicle performing snow removal services on a highway is
194 exempt from the requirements of this section [~~if the vehicle's load is screened to a particle size~~
195 ~~established by a rule of the department~~].

196 (b) This section does not prohibit the necessary spreading of any substance connected
197 with highway maintenance, construction, securing traction, or snow removal.

198 (6) A person may not operate a vehicle with a load on any highway unless the load and
199 any load covering is fastened, secured, and confined to prevent the covering or load from
200 becoming loose, detached, or in any manner a hazard to the safe operation of the vehicle, or to
201 other highway users.

202 (7) Before entering a highway, the operator of a vehicle carrying any material listed
203 under Subsection (3), shall remove all loose material on any portion of the vehicle not designed
204 to carry the material.

205 (8) Any person who violates this section is guilty of a class B misdemeanor.

206 Section 6. Section **72-9-701** is amended to read:

207 **72-9-701. Penalty for unlawful conduct.**

208 (1) Unless otherwise specified, any person who violates [~~the provisions~~] a provision of
209 this chapter or who aids or abets another person in a violation of this chapter is guilty of a class
210 B misdemeanor.

211 (2) A second or subsequent conviction for a violation of this chapter or of aiding or
212 abetting another person in a violation of this chapter is a class A misdemeanor.

213 [~~(2) Unless otherwise specified, any person who fails to obey any lawful order or rule~~

214 ~~made under this chapter is guilty of a class B misdemeanor. A second or subsequent~~
215 ~~conviction for failing to obey any lawful order or rule made under this chapter is a class A~~
216 ~~misdemeanor.]~~

217 Section 7. Section **72-10-120** is amended to read:

218 **72-10-120. Violations -- Penalty.**

219 A person who fails to comply with the requirements of or [~~violating~~] violates any [~~of~~
220 ~~the provisions~~] provision of this part[, or the rules or orders adopted by the department] is
221 guilty of a class B misdemeanor.

222 Section 8. **Repealer.**

223 This bill repeals:

224 Section **72-7-211, Violations -- Misdemeanor.**

Legislative Review Note
as of 11-15-07 7:27 AM

Office of Legislative Research and General Counsel

Fiscal Note**H.B. 57 - Transportation Administrative Rules - Criminal and Civil Penalty
Amendments**

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations. Provisions of the bill allow the Department of Transportation to charge for nuisance abatement and apply a \$10 per day penalty for none compliance. It is unknown at this time how many of these actions will be pursued and therefore a fiscal impact is not assigned.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
