

TRANSPORTATION SAFETY REVISIONS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Traffic Code, railroad provisions, and the Utah Criminal Code to address safety related to railroads.

Highlighted Provisions:

This bill:

- ▶ restricts when a vehicle may turn around related to railroad tracks or railroad grade crossings;
- ▶ limits pedestrians related to railroad crossings or bridges;
- ▶ restricts vehicles driving through, around, or under a crossing gate or barrier;
- ▶ addresses duty of care on railroad property;
- ▶ clarifies transportation systems for purposes of the criminal mischief provision;
- ▶ enacts criminal trespass on restricted railroad property; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-802, as renumbered and amended by Laws of Utah 2005, Chapter 2



28 **41-6a-1005**, as renumbered and amended by Laws of Utah 2005, Chapter 2

29 **41-6a-1203**, as renumbered and amended by Laws of Utah 2005, Chapter 2

30 **56-1-18.5**, as last amended by Laws of Utah 2010, Chapter 324

31 **76-6-106**, as last amended by Laws of Utah 2010, Chapter 193

32 ENACTS:

33 **76-6-206.4**, Utah Code Annotated 1953



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

36 Section 1. Section **41-6a-802** is amended to read:

37 **41-6a-802. Turning around -- Where prohibited -- Visibility.**

38 (1) As used in this section, "railroad grade crossing" means the area between the
39 passive or active warning signs where a railroad track and roadway intersect.

40 (2) The operator of a vehicle may not make a U-turn or turn the vehicle to proceed in
41 the opposite direction:

42 [(+)] (a) unless the movement can be made safely and without interfering with other
43 traffic; [or]

44 [(2)] (b) on any curve, or upon the approach to, or near the crest of a grade, if the
45 vehicle is not visible at a distance of 500 feet by the operator of any other vehicle approaching
46 from either direction[-]; and

47 (c) on a railroad track or railroad grade crossing.

48 Section 2. Section **41-6a-1005** is amended to read:

49 **41-6a-1005. Limitation on pedestrians related to railroad crossings or bridges.**

50 (1) A pedestrian may not pass through, around, over, under, or remain on a crossing
51 gate or barrier at a railroad crossing or bridge while;

52 (a) the gate or barrier is closed or is being opened or closed[-];

53 (b) warning lights are flashing;

54 (c) audible warning devices are being sounded; or

55 (d) other traffic control devices signal the approach of a railroad train.

56 (2) A pedestrian may not enter or remain within the area between a railroad track and a
57 railroad sign or signal while the railroad sign or signal is active at the railroad grade crossing.

58 (3) A pedestrian may not occupy or remain on a railroad grade crossing when the

59 railroad sign or signal is not active except to cross the railroad crossing on a designated
60 walkway.

61 (4) A pedestrian may not remain in an area between railroad signs or signals, railroad
62 gates, or rail crossing arms while the railroad sign or signal is active at a railroad grade
63 crossing.

64 Section 3. Section **41-6a-1203** is amended to read:

65 **41-6a-1203. Railroad grade crossing -- Duty to stop -- Malfunctions and school**
66 **buses -- Driving through, around, or under gate or barrier prohibited.**

67 (1) Whenever a person operating a vehicle approaches a railroad grade crossing, the
68 operator of the vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of
69 the railroad track and may not proceed if:

70 (a) a clearly visible electric or mechanical signal device gives warning of the
71 immediate approach of a train;

72 (b) a crossing gate is lowered, or when a human flagman gives or continues to give a
73 signal of the approach or passage of a train;

74 (c) a railroad train approaching within approximately 1,500 feet of the highway
75 crossing emits a signal audible and the train by reason of its speed or nearness to the crossing is
76 an immediate hazard;

77 (d) an approaching train is plainly visible and is in hazardous proximity to the crossing;
78 or

79 (e) there is any other condition that makes it unsafe to proceed through the crossing.

80 (2) (a) An operator of a vehicle who suspects a false activation or malfunction of a
81 railroad grade crossing signal device may drive a vehicle, including a school bus, through the
82 railroad grade crossing after stopping if:

83 (i) the operator of a vehicle has a clear line of sight of at least one mile of the railroad
84 tracks in all directions;

85 (ii) there is no evidence of an approaching train;

86 (iii) the vehicle can cross over the tracks safely; and

87 (iv) the operator of a vehicle does not violate Subsection (3).

88 (b) As soon as is reasonably possible, the operator of a school bus shall notify the
89 driver's dispatcher and the dispatcher shall notify the owner of the railroad track where the

90 grade crossing signal device is located of the false activation or malfunction.

91 (3) (a) A person may not drive a vehicle through, around, or under a crossing gate or
92 barrier at a railroad crossing while:

93 (i) the gate or barrier is closed or is being opened or closed[-];

94 (ii) warning lights are flashing;

95 (iii) audible warning devices are being sounded; or

96 (iv) other traffic control devices signal the approach of a railroad train.

97 (b) A person may not cause a non-rail vehicle, whether or not occupied, to pass

98 through, around, over, under, or remain on a gate or barrier at a railroad grade crossing while:

99 (i) the gate or barrier is closed or is being closed;

100 (ii) warning lights are flashing;

101 (iii) audible warning devices are being sounded; or

102 (iv) other traffic control devices signal the approach of a railroad train.

103 (c) A person may not cause a non-rail vehicle, whether or not occupied, to pass around,

104 through, over, under, or remain in a rail or fixed guideway right-of-way in a manner that would

105 cause a railroad train or other rail vehicle to make contact with the non-rail vehicle.

106 Section 4. Section **56-1-18.5** is amended to read:

107 **56-1-18.5. Railroad property -- Duty of care.**

108 [~~(1)~~ A person may not ride or climb or attempt to ride or climb on, off, under, over, or
109 across a railroad locomotive, car, or train.]

110 [~~(2)~~ A person may not walk, ride, or travel across, along, or upon railroad yards, tracks,
111 bridges, or active rights-of-way at any location other than public crossings.]

112 [~~(3)~~ A person may not intentionally obstruct or interfere with train operations or use
113 railroad property for recreational purposes.]

114 [~~(4)~~ (1) (a) Except as provided under Subsection [~~(4)~~ (1)(b), an owner or operator of a
115 railroad, including its officers, agents, and employees, owes no duty of care to keep railroad
116 yards, tracks, bridges, or active rights-of-way safe for entry for [~~any person violating this~~
117 ~~section.~~] a person who:

118 (i) rides or climbs or attempts to ride or climb on, off, under, over, or across a railroad
119 locomotive, car, or train;

120 (ii) walks, rides, or travels across, along, or upon railroad yards, tracks, bridges, or

121 active rights-of-way at any location other than a public crossing;

122 (iii) intentionally obstructs or interferes with train operations;

123 (iv) uses railroad property for recreational purposes; or

124 (v) otherwise criminally trespasses on restricted railroad property in violation of

125 Section 76-6-206.4.

126 (b) The owner or operator of a railroad may not intentionally, willfully, or maliciously
127 injure a person if the owner or operator has actual knowledge of the person's presence on the
128 property.

129 [~~5~~] (2) This section does not apply to a railroad employee, business invitee, or other
130 person with express written or oral authorization to enter upon railroad property by the owner
131 or operator of the railroad.

132 [~~6~~] (3) This section does not modify any rights or duties of federal, state, county, or
133 municipal officials in the performance of their duties.

134 Section 5. Section **76-6-106** is amended to read:

135 **76-6-106. Criminal mischief.**

136 (1) As used in this section, "critical infrastructure" includes:

137 (a) information and communication systems;

138 (b) financial and banking systems;

139 (c) any railroads, airlines, airports, airways, highways, bridges, waterways, fixed
140 guideways, or other transportation systems intended for the transportation of persons or

141 property;

142 (d) any public utility service, including the power, energy, and water supply systems;

143 (e) sewage and water treatment systems;

144 (f) health care facilities as listed in Section 26-21-2, and emergency fire, medical, and
145 law enforcement response systems;

146 (g) public health facilities and systems;

147 (h) food distribution systems; and

148 (i) other government operations and services.

149 (2) A person commits criminal mischief if the person:

150 (a) under circumstances not amounting to arson, damages or destroys property with the
151 intention of defrauding an insurer;

152 (b) intentionally and unlawfully tampers with the property of another and as a result:

153 (i) recklessly endangers:

154 (A) human life; or

155 (B) human health or safety; or

156 (ii) recklessly causes or threatens a substantial interruption or impairment of any
157 critical infrastructure;

158 (c) intentionally damages, defaces, or destroys the property of another; or

159 (d) recklessly or willfully shoots or propels a missile or other object at or against a
160 motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving
161 or standing.

162 (3) (a) (i) A violation of Subsection (2)(a) is a third degree felony.

163 (ii) A violation of Subsection (2)(b)(i)(A) is a class A misdemeanor.

164 (iii) A violation of Subsection (2)(b)(i)(B) is a class B misdemeanor.

165 (iv) A violation of Subsection (2)(b)(ii) is a second degree felony.

166 (b) Any other violation of this section is a:

167 (i) second degree felony if the actor's conduct causes or is intended to cause pecuniary
168 loss equal to or in excess of \$5,000 in value;

169 (ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary
170 loss equal to or in excess of \$1,500 but is less than \$5,000 in value;

171 (iii) class A misdemeanor if the actor's conduct causes or is intended to cause
172 pecuniary loss equal to or in excess of \$500 but is less than \$1,500 in value; and

173 (iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary
174 loss less than \$500 in value.

175 (4) In determining the value of damages under this section, or for computer crimes
176 under Section 76-6-703, the value of any item, computer, computer network, computer
177 property, computer services, software, or data includes the measurable value of the loss of use
178 of the items and the measurable cost to replace or restore the items.

179 (5) In addition to any other penalty authorized by law, a court shall order any person
180 convicted of any violation of this section to reimburse any federal, state, or local unit of
181 government, or any private business, organization, individual, or entity for all expenses
182 incurred in responding to a violation of Subsection (2)(b)(ii), unless the court states on the

183 record the reasons why the reimbursement would be inappropriate.

184 Section 6. Section **76-6-206.4** is enacted to read:

185 **76-6-206.4. Criminal trespass on restricted railroad property.**

186 (1) As used in this section:

187 (a) "Ballast" means the rock that forms the bed for the railroad track and that supports
188 the track infrastructure.

189 (b) "Enter" means intrusion of the entire body.

190 (c) "Restricted railroad property" means a railroad locomotive, car, train, track, ballast,
191 bridge, building, or equipment.

192 (2) A person is guilty of criminal trespass of restricted railroad property if, under
193 circumstances not amounting to burglary as defined in Section 76-6-202, 76-6-203, or
194 76-6-204 or a violation of Section 76-10-2402 regarding commercial obstruction, the person
195 knowingly, intentionally, or recklessly enters or remains on restricted railroad property.

196 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is an
197 infraction.

198 (b) A violation of Subsection (2) is a class B misdemeanor if the person:

199 (i) intends to interfere with railroad operations or cause annoyance or injury to any
200 person or damage to any property;

201 (ii) intends to commit a crime other than theft or a felony;

202 (iii) is reckless as to whether the person's presence will cause fear for the safety of any
203 person; or

204 (iv) recklessly interferes with railroad operations.

205 (4) It is a defense to prosecution under this section that the person:

206 (a) is present on the restricted railroad property in the person's capacity as an employee,
207 passenger, contractor, or invitee of the railroad; or

208 (b) has permission to be on the restricted railroad property from a person with apparent
209 authority to act for the railroad.

Legislative Review Note
as of 2-27-12 3:30 PM

Office of Legislative Research and General Counsel