

SB0195S01 compared with SB0195

~~{deleted text}~~ shows text that was in SB0195 but was deleted in SB0195S01.

inserted text shows text that was not in SB0195 but was inserted into SB0195S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Senator Karen Mayne proposes the following substitute bill:

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:

▶ provides definitions:

- ▶ 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; and

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~~{~~ → 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

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

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

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

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

~~{~~ ENACTS:

~~→ **76-6-206.4**, Utah Code Annotated 1953~~

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

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

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

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

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

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

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

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

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

41-6a-1005. Limitation on pedestrians related to railroad grade crossings or

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bridges.

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

~~(a) As used in this section, "active railroad grade crossing" means a railroad grade crossing when:~~

~~(a) the gate or barrier is closed or is being opened or closed ~~{f.}~~;~~

~~(b) warning lights are flashing;~~

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

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

~~(2) A pedestrian may not pass through, around, over, or under[-] or remain on a crossing gate or barrier at [a] an active railroad grade crossing or bridge [while the gate or barrier is closed or is being opened or closed].~~

~~(~~2~~)~~3~~) A pedestrian may not enter or remain within the area between a railroad track and a railroad sign or signal ~~{while the railroad sign or signal is active at}~~ if the railroad grade crossing is active.~~

~~(~~3~~)~~4~~) A pedestrian may not occupy or remain on a railroad grade crossing when the railroad sign or signal is not active except to cross the railroad crossing on a designated walkway.~~

~~(~~4~~)~~5~~) A pedestrian may not remain in an area between railroad signs or signals, railroad gates, or rail crossing arms ~~{while}~~ if the ~~{ railroad sign or signal is active at a }~~ railroad grade crossing is active.~~

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

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

(1) As used in this section, "active railroad grade crossing" has the same meaning as defined in Section 41-6a-1005.

[(+)](2) Whenever a person operating a vehicle approaches a railroad grade crossing, the operator of the vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of the railroad track and may not proceed if:

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

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

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

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

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

~~[(2)]~~ (3) (a) An operator of a vehicle who suspects a false activation or malfunction of a railroad grade crossing signal device may drive a vehicle, including a school bus, through the railroad grade crossing after stopping if:

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

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

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

(iv) the operator of a vehicle does not violate Subsection ~~[(3)]~~ (4).

(b) As soon as is reasonably possible, the operator of a school bus shall notify the driver's dispatcher and the dispatcher shall notify the owner of the railroad track where the grade crossing signal device is located of the false activation or malfunction.

~~[(3)]~~ (4) (a) A person may not drive a vehicle through, around, or under a crossing gate or barrier at a railroad grade crossing ~~[while~~ {

~~(i) } the gate or barrier is closed or is being opened or closed {[.];~~

~~(ii) warning lights are flashing;~~

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

~~(iv) other traffic control devices signal the approach of a railroad train.}] if the railroad grade crossing is active.~~

~~(b) A person may not cause a non-rail vehicle, whether or not occupied, to pass through, around, over, or under {,} or remain on a gate or barrier at a railroad grade crossing {while:~~

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

~~(ii) warning lights are flashing;~~

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- ~~— (iii) audible warning devices are being sounded; or~~
 - ~~— (iv) other traffic control devices signal the approach of a railroad train;~~
- ~~if the railroad grade crossing is active.~~

~~(c) A person may not cause a non-rail vehicle, whether or not occupied, to pass around, through, over, or under ~~{,}~~ or remain in a rail or fixed guideway right-of-way in a manner that would cause a railroad train or other rail vehicle to make contact with the non-rail vehicle.~~

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

~~**56-1-18.5. Railroad property -- Duty of care:**~~

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

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

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

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

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

~~— (ii) walks, rides, or travels across, along, or upon railroad yards, tracks, bridges, or active rights-of-way at any location other than a public crossing;~~

~~— (iii) intentionally obstructs or interferes with train operations;~~

~~— (iv) uses railroad property for recreational purposes; or~~

~~— (v) otherwise criminally trespasses on restricted railroad property in violation of Section 76-6-206.4.~~

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

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

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~~or operator of the railroad.~~

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

‡ Section ~~(5)~~4. Section **76-6-106** is amended to read:

76-6-106. Criminal mischief.

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

- (a) information and communication systems;
- (b) financial and banking systems;
- (c) any railroads, airlines, airports, airways, highways, bridges, waterways, fixed guideways, or other transportation systems intended for the transportation of persons or property;

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

(e) sewage and water treatment systems;

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

(g) public health facilities and systems;

(h) food distribution systems; and

(i) other government operations and services.

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

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

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

(i) recklessly endangers:

(A) human life; or

(B) human health or safety; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~{ Section 6. Section 76-6-206.4 is enacted to read:~~

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

~~_____ (1) As used in this section:~~

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

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

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

~~_____ (2) A person is guilty of criminal trespass of restricted railroad property if, under~~

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~~circumstances not amounting to burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation of Section 76-10-2402 regarding commercial obstruction, the person knowingly, intentionally, or recklessly enters or remains on restricted railroad property:~~

~~—— (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is an infraction:~~

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

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

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

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

~~—— (iv) recklessly interferes with railroad operations:~~

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

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

~~—— (b) has permission to be on the restricted railroad property from a person with apparent authority to act for the railroad:~~

Legislative Review Note

~~—— as of 2-27-12 3:30 PM~~

~~————— Office of Legislative Research and General Counsel}~~