

## SB0104S01 compared with SB0104

~~{deleted text}~~ shows text that was in SB0104 but was deleted in SB0104S01.

inserted text shows text that was not in SB0104 but was inserted into SB0104S01.

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Senator Todd Weiler proposes the following substitute bill:

### VULNERABLE USERS OF HIGHWAYS AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Todd Weiler**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill modifies the Traffic Code by enacting ~~{sentencing requirements for certain violations that impact}~~ provisions relating to vulnerable users of a highway.

##### Highlighted Provisions:

This bill:

- ▶ defines a vulnerable user of a highway; and
- ▶ provides that ~~{if a person contributes to the physical injury of}~~ an operator of a motor vehicle may not knowingly, intentionally, or recklessly:
  - distract or attempt to distract a vulnerable user of a highway ~~{during the commission of a moving traffic violation, the court:~~
  - ~~shall impose a sentence that requires the person convicted of the offense to complete a defensive driving course and perform community service; and~~

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- ~~• may impose a fine that is up to double the recommended fine amount} for a purpose unrelated to public safety; or~~
- ~~• force or attempt to force a vulnerable user of a highway off of the roadway for a purpose unrelated to public safety;~~
- ~~▶ provides penalties for distracting a vulnerable user of a highway or forcing a vulnerable user of a highway off of the roadway for a purpose unrelated to public safety; and~~
- ▶ makes technical corrections.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

~~{41-6a-102}~~41-6a-706.5, as ~~{last amended}~~enacted by Laws of Utah ~~{2009}~~2005,  
Chapter ~~{311}~~216

~~{ 41-6a-202, as renumbered and amended by Laws of Utah 2005, Chapter 2~~

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

Section 1. Section ~~{41-6a-102}~~41-6a-706.5 is amended to read:

~~{41-6a-102}~~41-6a-706.5. Definitions{

~~— } -- Operation of motor vehicle near bicycle prohibited -- Endangering a vulnerable user of a highway prohibited.~~

(1) As used in this {chapter:

~~— (1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.~~

~~— (2) "All-terrain type I vehicle" has the same meaning as defined in Section 41-22-2.~~

~~— (3) "Authorized emergency vehicle" includes:~~

~~— (a) fire department vehicles;~~

~~— (b) police vehicles;~~

~~— (c) ambulances; and~~

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~~— (d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety;~~

~~— (4) (a) "Bicycle" means every device:~~

~~— (i) propelled by human power;~~

~~— (ii) upon which a person may ride; and~~

~~— (iii) having two tandem wheels;~~

~~— (b) "Bicycle" does not include scooters and similar devices;~~

~~— (5) (a) "Bus" means a motor vehicle:~~

~~— (i) designed for carrying more than 15 passengers and used for the transportation of persons; or~~

~~— (ii) designed and used for the transportation of persons for compensation;~~

~~— (b) "Bus" does not include a taxicab;~~

~~— (6) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island;~~

~~— (b) "Circular intersection" includes:~~

~~— (i) roundabouts;~~

~~— (ii) rotaries; and~~

~~— (iii) traffic circles;~~

~~— (7) "Commissioner" means the commissioner of the Department of Public Safety;~~

~~— (8) "Controlled-access highway" means a highway, street, or roadway:~~

~~— (a) designed primarily for through traffic; and~~

~~— (b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway;~~

~~— (9) "Crosswalk" means:~~

~~— (a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:~~

~~— (i) (A) the curbs; or~~

~~— (B) in the absence of curbs, from the edges of the traversable roadway; and~~

~~— (ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway~~

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~~included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or~~

~~—— (b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface;~~

~~—— (10) "Department" means the Department of Public Safety;~~

~~—— (11) "Direct supervision" means oversight at a distance within which:~~

~~—— (a) visual contact is maintained; and~~

~~—— (b) advice and assistance can be given and received;~~

~~—— (12) "Divided highway" means a highway divided into two or more roadways by:~~

~~—— (a) an unpaved intervening space;~~

~~—— (b) a physical barrier; or~~

~~—— (c) a clearly indicated dividing section constructed to impede vehicular traffic;~~

~~—— (13) "Electric assisted bicycle" means a moped:~~

~~—— (a) with an electric motor with a power output of not more than 1,000 watts; and~~

~~—— (b) which is not capable of:~~

~~—— (i) propelling the device at a speed of more than 20 miles per hour on level ground; and~~

~~—— (ii) increasing the speed of the device when human power is used to propel the device at more than 20 miles per hour;~~

~~—— (14) (a) "Electric personal assistive mobility device" means a self-balancing device with:~~

~~—— (i) two nontandem wheels in contact with the ground;~~

~~—— (ii) a system capable of steering and stopping the unit under typical operating conditions;~~

~~—— (iii) an electric propulsion system with average power of one horsepower or 750 watts;~~

~~—— (iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and~~

~~—— (v) a deck design for a person to stand while operating the device;~~

~~—— (b) "Electric personal assistive mobility device" does not include a wheelchair;~~

~~—— (15) "Explosives" means any chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or~~

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~~mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury:~~

~~—— (16) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry:~~

~~—— (17) "Flammable liquid" means a liquid which has a flashpoint of 100 degrees F. or less, as determined by a tagliabue or equivalent closed-cup test device:~~

~~—— (18) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102:~~

~~—— (19) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways:~~

~~—— (20) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle:~~

~~—— (21) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel:~~

~~—— (22) "Highway authority" has the same meaning as defined in Section 72-1-102:~~

~~—— (23) (a) "Intersection" means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways which join one another:~~

~~—— (b) Where a highway includes two roadways 30 feet or more apart:~~

~~—— (i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and~~

~~—— (ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection:~~

~~—— (c) "Intersection" does not include the junction of an alley with a street or highway:~~

~~—— (24) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:~~

~~—— (a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;~~

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- ~~—— (b) channelizing devices;~~
- ~~—— (c) curbs;~~
- ~~—— (d) pavement edges; or~~
- ~~—— (e) other devices;~~
- ~~—— (25) "Law enforcement agency" has the same meaning as defined in Section 53-1-102.~~
- ~~—— (26) "Limited access highway" means a highway:~~
  - ~~—— (a) that is designated specifically for through traffic; and~~
  - ~~—— (b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.~~
- ~~—— (27) "Local highway authority" means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.~~
- ~~—— (28) (a) "Low-speed vehicle" means a four-wheeled electric motor vehicle that:~~
  - ~~—— (i) is designed to be operated at speeds of not more than 25 miles per hour; and~~
  - ~~—— (ii) has a capacity of not more than four passengers, including the driver.~~
- ~~—— (b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.~~
- ~~—— (29) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.~~
- ~~—— (30) (a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.~~
  - ~~—— (b) "Mini-motorcycle" does not include a moped or a motor-assisted scooter.~~
  - ~~—— (c) "Mini-motorcycle" does not include a motorcycle that is:~~
    - ~~—— (i) designed for off-highway use; and~~
    - ~~—— (ii) registered as an off-highway vehicle under Section 41-22-3.~~
- ~~—— (31) "Mobile home" means:~~
  - ~~—— (a) a trailer or semitrailer which is:~~
    - ~~—— (i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and~~
    - ~~—— (ii) equipped for use as a conveyance on streets and highways; or~~

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~~— (b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection (31)(a), but which is instead used permanently or temporarily for:~~

~~— (i) the advertising, sale, display, or promotion of merchandise or services; or~~

~~— (ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.~~

~~— (32) (a) "Moped" means a motor-driven cycle having:~~

~~— (i) pedals to permit propulsion by human power; and~~

~~— (ii) a motor which:~~

~~— (A) produces not more than two brake horsepower; and~~

~~— (B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.~~

~~— (b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.~~

~~— (c) "Moped" includes an electric-assisted bicycle and a motor-assisted scooter.~~

~~— (33) "Motor-assisted scooter" means a self-propelled device with:~~

~~— (a) at least two wheels in contact with the ground;~~

~~— (b) a braking system capable of stopping the unit under typical operating conditions;~~

~~— (c) a gas or electric motor not exceeding 40 cubic centimeters;~~

~~— (d) either:~~

~~— (i) a deck design for a person to stand while operating the device; or~~

~~— (ii) a deck and seat designed for a person to sit, straddle, or stand while operating the device; and~~

~~— (e) a design for the ability to be propelled by human power alone.~~

~~— (34) (a) "Motor vehicle" means a vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.~~

~~— (b) "Motor vehicle" does not include vehicles moved solely by human power, motorized wheelchairs, or an electric personal assistive mobility device.~~

~~— (35) "Motorcycle" means a motor vehicle, other than a tractor, having a seat or saddle~~

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~~for the use of the rider and designed to travel with not more than three wheels in contact with the ground:~~

~~—— (36) (a) "Motor-driven cycle" means every motorcycle, motor scooter, moped, electric assisted bicycle, motor assisted scooter, and every motorized bicycle having:~~

~~—— (i) an engine with less than 150 cubic centimeters displacement; or~~

~~—— (ii) a motor which produces not more than five horsepower;~~

~~—— (b) "Motor-driven cycle" does not include an electric personal assistive mobility device;~~

~~—— (37) "Off-highway implement of husbandry" has the same meaning as defined under Section 41-22-2;~~

~~—— (38) "Off-highway vehicle" has the same meaning as defined under Section 41-22-2;~~

~~—— (39) "Operator" means a person who is in actual physical control of a vehicle;~~

~~—— (40) (a) "Park" or "parking" means the standing of a vehicle, whether occupied or not;~~

~~—— (b) "Park" or "parking" does not include the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers;~~

~~—— (41) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws;~~

~~—— (42) "Pedestrian" means a person traveling:~~

~~—— (a) on foot; or~~

~~—— (b) in a wheelchair;~~

~~—— (43) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians;~~

~~—— (44) "Person" means every natural person, firm, copartnership, association, or corporation;~~

~~—— (45) "Pole trailer" means every vehicle without motive power:~~

~~—— (a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and~~

~~—— (b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections;~~



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~~—— (46) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.~~

~~—— (47) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.~~

~~—— (48) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.~~

~~—— (49) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.~~

~~—— (50) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity which give rise to danger of collision unless one grants precedence to the other.~~

~~—— (51) (a) "Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.~~

~~—— (b) "Roadway" does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.~~

~~—— (c) "Roadway" refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.~~

~~—— (52) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.~~

~~—— (53) (a) "School bus" means a motor vehicle that:~~

~~—— (i) complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses"; and~~

~~—— (ii) is used to transport school children to or from school or school activities.~~

~~—— (b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.~~

~~—— (54) (a) "Semitrailer" means a vehicle with or without motive power:~~

~~—— (i) designed for carrying persons or property and for being drawn by a motor vehicle;~~

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and

~~—— (ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.~~

~~—— (b) "Semitrailer" does not include a pole trailer.~~

~~—— (55) "Shoulder area" means:~~

~~—— (a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices";~~

or

~~—— (b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and lateral support.~~

~~—— (56) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.~~

~~—— (57) "Solid rubber tire" means a tire of rubber or other resilient material which does not depend on compressed air for the support of the load.~~

~~—— (58) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.~~

~~—— (59) "Stop" when required means complete cessation from movement.~~

~~—— (60) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:~~

~~—— (a) necessary to avoid conflict with other traffic; or~~

~~—— (b) in compliance with the directions of a peace officer or traffic-control device.~~

~~—— (61) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle or utility type vehicle that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.~~

~~—— (62) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.~~

~~—— (63) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.~~

~~—— (64) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.~~

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~~—— (65) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.~~

~~—— (66) (a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.~~

~~—— (b) "Trailer" does not include a pole trailer.~~

~~—— (67) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.~~

~~—— (68) "Truck tractor" means a motor vehicle:~~

~~—— (a) designed and used primarily for drawing other vehicles; and~~

~~—— (b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.~~

~~—— (69) "Two-way left turn lane" means a lane:~~

~~—— (a) provided for vehicle operators making left turns in either direction;~~

~~—— (b) that is not used for passing, overtaking, or through travel; and~~

~~—— (c) that has been indicated by a lane traffic-control device which may include lane markings.~~

~~—— (70) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.~~

~~—— (71) (a) "Utility type vehicle" means any recreational vehicle designed for and capable of travel over unimproved terrain:~~

~~—— (i) traveling on four or more tires;~~

~~—— (ii) having a width of 30 to 70 inches;~~

~~—— (iii) having an unladen dry weight of 2,200 pounds or less;~~

~~—— (iv) having a seat height of 25 to 40 inches when measured at the forward edge of the seat bottom; and~~

~~—— (v) having side-by-side seating with a steering wheel for control.~~

~~—— (b) "Utility type vehicle" does not include:~~

~~—— (i) an all-terrain type I vehicle;~~

~~—— (ii) an all-terrain type II vehicle;~~

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~~— (iii) a motorcycle; or~~

~~— (iv) a snowmobile as defined in Section 41-22-2.~~

~~— (72) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except devices used exclusively on stationary rails or tracks.~~

~~— (73) "Vulnerable" section, "vulnerable" user of a highway" means:~~

~~(a) a pedestrian, including a person engaged in work upon a highway or upon utilities facilities along a highway or providing emergency services within the right-of-way of a highway;~~

~~(b) a person riding an animal; or~~

~~(c) a person operating any of the following on a highway:~~

~~(i) a farm tractor or implement of husbandry, without an enclosed shell;~~

~~(ii) a skateboard;~~

~~(iii) roller skates;~~

~~(iv) in-line skates;~~

~~(v) a bicycle;~~

~~(vi) an electric-assisted bicycle;~~

~~(vii) an electric personal assistive mobility device;~~

~~(viii) a moped;~~

~~(ix) a motor-driven cycle;~~

~~(x) a motorized scooter; or~~

~~(xi) a motorcycle.~~

~~{Section 2. Section 41-6a-202 is amended to read:~~

~~— **41-6a-202. Violations of chapter -- Penalties.**~~

~~— (1) A violation of any provision of this chapter is a class C misdemeanor, unless otherwise provided.~~

~~— (2) A violation of any provision of Parts 2, 11, 17, and 18 of this chapter is an infraction, unless otherwise provided.~~

~~— (3) If a person who violates a moving traffic violation under this chapter contributes to the physical injury of;~~ (2) An operator of a motor vehicle may not knowingly, intentionally, or recklessly;

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(a) operate a motor vehicle within three feet of a moving bicycle, unless the operator of the motor vehicle operates the motor vehicle within a reasonable and safe distance of the bicycle[-];

(b) distract or attempt to distract a vulnerable user of a highway {who is lawfully on the highway during the commission of the offense, the court:

~~— (a) shall impose a sentence that requires the person convicted of the offense to:~~

~~— (i) complete a defensive driving course approved by:~~

~~— (A) the Driver License Division; or~~

~~— (B) a court in this state; and~~

~~— (ii) perform up to 100 hours of community service directly related to improving interactions between motorists and; for a purpose unrelated to public safety; or~~

(c) force or attempt to force a vulnerable {users of a highway; and

~~— (b) may impose a fine that is up to double the fine amount in the uniform recommended fine schedule established under Section 76-3-301.5.~~

### Legislative Review Note

~~— as of 2-4-13 11:57 AM~~

~~Office of Legislative Research and General Counsel~~ user of a highway off of the roadway for a purpose unrelated to public safety.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class C misdemeanor.

(b) A violation of Subsection (2) that results in bodily injury to the vulnerable user of a highway is a class B misdemeanor.