

TRANSPORTATION RIGHTS-OF-WAY SAFETY

AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor:

LONG TITLE

General Description:

This bill enacts a provision relating to state transportation purposes.

Highlighted Provisions:

This bill:

► expands the definition of "state transportation purposes," within transportation rights-of-way provisions, to include the construction and maintenance of pathways ~~for~~ ~~pedestrians and other~~ nonmotorized ~~vehicle traffic away from a highway in order~~ transportation to enhance traffic safety and efficiency on the highway.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-5-102, as last amended by Laws of Utah 2001, Chapter 79

78B-6-501, as last amended by Laws of Utah 2013, Chapter 327

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

Section 1. Section **72-5-102** is amended to read:



28 **72-5-102. Definitions.**

29 As used in this part, "state transportation purposes" includes:

30 (1) highway and public transportation rights-of-way, including those necessary within
31 cities and towns;32 (2) the construction, reconstruction, relocation, improvement, maintenance, and
33 mitigation from the effects of these activities on state highways and other transportation
34 facilities under the control of the department;35 (3) limited access facilities, including rights of access, air, light, and view and frontage
36 and service roads to highways;37 (4) adequate drainage in connection with any highway, cut, fill, or channel change and
38 the maintenance of any highway, cut, fill, or channel change;39 (5) weighing stations, shops, offices, storage buildings and yards, and road
40 maintenance or construction sites;41 (6) road material sites, sites for the manufacture of road materials, and access roads to
42 the sites;43 (7) the maintenance of an unobstructed view of any portion of a highway to promote
44 the safety of the traveling public;45 (8) the placement of traffic signals, directional signs, and other signs, fences, curbs,
46 barriers, and obstructions for the convenience of the traveling public;47 (9) the construction and maintenance of storm sewers, sidewalks, and highway
48 illumination;

49 (10) the construction and maintenance of livestock highways;

50 (11) the construction and maintenance of roadside rest areas adjacent to or near any
51 highway; ~~and~~52 (12) the mitigation of impacts from public transportation projects[-]; and53 ~~↳~~ **↳ [(13) the construction and maintenance of a pathway:**54 ~~———— (a) located within or adjacent to a highway right-of-way or an abandoned railroad~~
55 ~~right-of-way;~~56 ~~———— (b) intended for use by pedestrians and others using bicycles or other nonmotorized~~
57 ~~modes of transportation; and~~58 ~~———— (c) designed to divert pedestrians and other nonmotorized traffic away from a nearby~~ ← ~~↳~~

59 ~~§ highway in order to enhance traffic safety and efficiency on the highway.]~~

59a (13) the construction and maintenance of a pathway:

59b (a) for pedestrians, bicyclists, and other nonmotorized transportation; and

59c (b) designed to enhance the safety and efficiency of a nearby highway. ←§

60 Section 2. Section **78B-6-501** is amended to read:

61 **78B-6-501. Eminent domain -- Uses for which right may be exercised.**

62 Subject to the provisions of this part, the right of eminent domain may be exercised on
63 behalf of the following public uses:

64 (1) all public uses authorized by the federal government;

65 (2) public buildings and grounds for the use of the state, and all other public uses
66 authorized by the Legislature;

67 (3) (a) public buildings and grounds for the use of any county, city, town, or board of
68 education;

69 (b) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water or
70 sewage, including to or from a development, for the use of the inhabitants of any county, city,
71 or town, or for the draining of any county, city, or town;

72 (c) the raising of the banks of streams, removing obstructions from streams, and
73 widening, deepening, or straightening their channels;

74 (d) bicycle paths and sidewalks adjacent to paved roads;

75 (e) roads, byroads, streets, and alleys for public vehicular use, including for access to a
76 development, excluding trails, paths, or other ways for walking, hiking, bicycling, equestrian
77 use, or other recreational uses, or whose primary purpose is as a foot path, equestrian trail,
78 bicycle path, or walkway; [~~and~~]

79 (f) notwithstanding the exclusion under Subsection (3)(e), a pathway described in
80 Subsection 72-5-102(13); and

81 [~~(f)~~] (g) all other public uses for the benefit of any county, city, or town, or its
82 inhabitants;

83 (4) wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank
84 and turnpike roads, roads for transportation by traction engines or road locomotives, roads for
85 logging or lumbering purposes, and railroads and street railways for public transportation;

86 (5) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and pipes
87 for the supplying of persons, mines, mills, smelters or other works for the reduction of ores,
88 with water for domestic or other uses, or for irrigation purposes, or for the draining and
89 reclaiming of lands, or for the floating of logs and lumber on streams not navigable, or for solar

90 evaporation ponds and other facilities for the recovery of minerals in solution;

91 (6) (a) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping places
92 to access or facilitate the milling, smelting, or other reduction of ores, or the working of mines,
93 quarries, coal mines, or mineral deposits including oil, gas, and minerals in solution;

94 (b) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water
95 from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal
96 mines or mineral deposits including minerals in solution;

97 (c) mill dams;

98 (d) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface stratum or
99 formation in any land for the underground storage of natural gas, and in connection with that,
100 any other interests in property which may be required to adequately examine, prepare,
101 maintain, and operate underground natural gas storage facilities;

102 (e) solar evaporation ponds and other facilities for the recovery of minerals in solution;
103 and

104 (f) any occupancy in common by the owners or possessors of different mines, quarries,
105 coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores, or any
106 place for the flow, deposit or conduct of tailings or refuse matter;

107 (7) byroads leading from a highway to:

108 (a) a residence; or

109 (b) a farm;

110 (8) telegraph, telephone, electric light and electric power lines, and sites for electric
111 light and power plants;

112 (9) sewage service for:

113 (a) a city, a town, or any settlement of not fewer than 10 families;

114 (b) a public building belonging to the state; or

115 (c) a college or university;

116 (10) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and
117 storing water for the operation of machinery for the purpose of generating and transmitting
118 electricity for power, light or heat;

119 (11) cemeteries and public parks, except for a park whose primary use is:

120 (a) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use; or

121 (b) to connect other trails, paths, or other ways for walking, hiking, bicycling, or
122 equestrian use;

123 (12) pipelines for the purpose of conducting any and all liquids connected with the
124 manufacture of beet sugar; and

125 (13) sites for mills, smelters or other works for the reduction of ores and necessary to
126 their successful operation, including the right to take lands for the discharge and natural
127 distribution of smoke, fumes, and dust, produced by the operation of works, provided that the
128 powers granted by this section may not be exercised in any county where the population
129 exceeds 20,000, or within one mile of the limits of any city or incorporated town nor unless the
130 proposed condemner has the right to operate by purchase, option to purchase or easement, at
131 least 75% in value of land acreage owned by persons or corporations situated within a radius of
132 four miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits
133 of the four-mile radius; nor as to lands covered by contracts, easements, or agreements existing
134 between the condemner and the owner of land within the limit and providing for the operation
135 of such mill, smelter, or other works for the reduction of ores; nor until an action shall have
136 been commenced to restrain the operation of such mill, smelter, or other works for the
137 reduction of ores.

Legislative Review Note
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Office of Legislative Research and General Counsel