

**Senator Karen Mayne** proposes the following substitute bill:

**TRANSPORT OF RAILROAD EMPLOYEES**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karen Mayne**

House Sponsor: Paul Ray

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**LONG TITLE**

**General Description:**

This bill modifies the Transportation Code by enacting provisions related to contract motor carriers of railroad employees.

**Highlighted Provisions:**

This bill:

- ▶ provides definitions;
- ▶ establishes requirements for vehicle operators who transport railroad employees;
- ▶ establishes requirements for motor vehicles used to transport railroad employees;
- ▶ provides that a person is subject to a class C misdemeanor for violating a Railroad

Employee Safe Transportation Act provision; and

- ▶ provides that a contract railroad employee motor carrier or a vehicle operator is subject to civil penalties for violating a Railroad Employee Safe Transportation Act provision.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**



26 ENACTS:

27 [72-9-801](#), Utah Code Annotated 1953

28 [72-9-802](#), Utah Code Annotated 1953

29 [72-9-803](#), Utah Code Annotated 1953

30 [72-9-804](#), Utah Code Annotated 1953

31 [72-9-805](#), Utah Code Annotated 1953

32 [72-9-806](#), Utah Code Annotated 1953

33 [72-9-807](#), Utah Code Annotated 1953

34 [72-9-808](#), Utah Code Annotated 1953

35 [72-9-809](#), Utah Code Annotated 1953

36 [72-9-810](#), Utah Code Annotated 1953

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

39 Section 1. Section [72-9-801](#) is enacted to read:

40 **Part 8. Railroad Employee Safe Transportation Act**

41 **[72-9-801](#). Title.**

42 This part is known as the "Railroad Employee Safe Transportation Act."

43 Section 2. Section [72-9-802](#) is enacted to read:

44 **[72-9-802](#). Definitions.**

45 As used in this section:

46 (1) (a) "Contract railroad employee motor carrier" means an owner of a business  
47 engaged in transporting railroad employees as passengers in a motor vehicle designed to carry  
48 eight or fewer passengers, including the driver, on a highway within the state.

49 (b) "Contract railroad employee motor carrier" does not mean a railroad company that  
50 uses vehicles owned by the railroad company and operated by railroad employees to transport  
51 railroad employees.

52 (2) "On-duty time" means the same as that term is defined in 49 C.F.R. Part 395.

53 (3) "Railroad" means the same as that term is defined in Section [41-6a-102](#).

54 (4) "Railroad company" means a company that operates a railroad within the state.

55 (5) "Railroad employee" means an employee in the course of an employee's  
56 employment with a railroad company.

57 (6) "Serious traffic violation" means a conviction of any of the following:  
58 (a) speeding 15 or more miles per hour above the posted speed limit;  
59 (b) reckless driving as defined in Section [41-6a-528](#);  
60 (c) an improper or erratic traffic lane change;  
61 (d) following the vehicle ahead too closely; or  
62 (e) any other motor vehicle traffic law that arises in connection with a fatal traffic  
63 accident.

64 (7) "Vehicle operator" means an individual who owns or is employed by a contract  
65 railroad employee motor carrier and who operates a motor vehicle to transport railroad  
66 employees for a contract railroad employee motor carrier.

67 Section 3. Section **72-9-803** is enacted to read:

68 **72-9-803. Information lettered on vehicle.**

69 (1) A contract railroad employee motor carrier shall display the name of the owner and  
70 the words "contract railroad employee motor carrier" on both sides of any vehicle used to  
71 transport railroad employees.

72 (2) The contract railroad employee motor carrier shall ensure that the information  
73 described in Subsection (1) is free from obstruction and legible from a distance of at least 50  
74 feet.

75 (3) A contract railroad employee motor carrier shall register as a contract railroad  
76 employee motor carrier with the department.

77 (4) In addition to the information required under Subsection (1), the department may  
78 require an identification number assigned by the department to be displayed in accordance with  
79 Subsection (1).

80 Section 4. Section **72-9-804** is enacted to read:

81 **72-9-804. Department duties.**

82 (1) The department shall administer and, in cooperation with the Utah Highway Patrol  
83 Division, Department of Public Safety, as specified under Section [53-8-105](#), enforce this part.

84 (2) The department shall register a contract railroad employee motor carrier as  
85 described in Section [72-9-803](#).

86 (3) The department shall conduct compliance audits and inspections as needed to  
87 enforce this part.

88 (4) A contract railroad employee motor carrier shall submit its vehicles and equipment  
89 for inspection and examination and shall submit its books, log books, reports, records, and  
90 documents for inspection and copying in accordance with this part.

91 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
92 department shall make rules to implement and manage this part.

93 Section 5. Section **72-9-805** is enacted to read:

94 **72-9-805. Vehicle operator qualifications.**

95 (1) A contract railroad employee motor carrier shall ensure that every vehicle operator  
96 who drives for the contract railroad employee motor carrier has a valid driver license.

97 (2) A contract railroad employee motor carrier shall:

98 (a) ensure that every vehicle operator for the contract railroad employee motor carrier  
99 is physically qualified to operated a vehicle as if the vehicle operator is operating a commercial  
100 motor vehicle, in accordance with 49 C.F.R. Part 391.41;

101 (b) implement a mandatory alcohol and controlled substance testing program that  
102 consists of preemployment, postaccident, random, and reasonable suspicion testing, conducted  
103 by a federally certified or licensed physician or clinic;

104 (c) preserve and maintain records of examinations, tests, log books, hours of service,  
105 and vehicle inspections at the contract railroad employee motor carrier's registered place of  
106 business in the state; and

107 (d) implement a policy that provides for annual training and certification of every  
108 vehicle operator for the contract railroad employee motor carrier in:

109 (i) safe operation of a vehicle transporting railroad employees;

110 (ii) relevant laws and rules of the road;

111 (iii) handling emergencies;

112 (iv) proper use of seat belts; and

113 (v) vehicle inspections and inspection record keeping.

114 (3) A contract railroad employee motor carrier may not permit or require a vehicle  
115 operator who drives for the contract railroad employee motor carrier to operate a motor vehicle  
116 if the vehicle operator has committed two or more serious traffic violations within the previous  
117 three years.

118 Section 6. Section **72-9-806** is enacted to read:

119 72-9-806. Requirements for motor vehicles.

120 (1) A contract railroad employee motor carrier shall maintain, or require every vehicle  
121 operator who drives for the contract railroad employee motor carrier to maintain, current motor  
122 vehicle registration in accordance with Title 41, Chapter 1a, Motor Vehicle Act.

123 (2) (a) A contract railroad employee motor carrier shall conduct, or require every  
124 vehicle operator who drives for the contract railroad employee motor carrier to conduct, a  
125 vehicle inspection on each vehicle at the end of each working day.

126 (b) A contract railroad employee motor carrier shall prepare or require every vehicle  
127 operator who drives for the contract railroad employee motor carrier to prepare a written  
128 vehicle inspection report if the vehicle operator discovers a defect or deficiency with the  
129 vehicle.

130 (c) A vehicle inspection report shall list the condition of the vehicle and shall specify  
131 any repairs needed.

132 (d) Prior to operating a motor vehicle to transport a railroad employee, a vehicle  
133 operator shall repair any items listed on the vehicle inspection report that would likely affect  
134 the safe operation of the motor vehicle.

135 (e) A vehicle inspection shall ensure that each motor vehicle is maintained in a safe  
136 manner, including the following parts and equipment:

137 (i) service and parking brakes;

138 (ii) lighting devices and reflectors;

139 (iii) exhaust system;

140 (iv) rear vision mirrors;

141 (v) steering;

142 (vi) tires, wheels, and rims;

143 (vii) horn;

144 (viii) windshield and windshield wipers;

145 (ix) emergency and first-aid equipment; and

146 (x) heating equipment capable of maintaining a reasonable temperature in passenger  
147 areas.

148 (f) A contract railroad employee motor carrier shall retain the original copy of each  
149 vehicle inspection report and the certification of repairs for at least six months after the day on

150 which the report is prepared.

151 Section 7. Section **72-9-807** is enacted to read:

152 **72-9-807. Insurance.**

153 A contract railroad employee motor carrier shall maintain, or require every vehicle  
154 operator to maintain:

155 (1) motor vehicle liability coverage in a minimum amount of \$2,000,000; and

156 (2) uninsured and underinsured motor vehicle coverage in a minimum amount of  
157 \$1,000,000.

158 Section 8. Section **72-9-808** is enacted to read:

159 **72-9-808. Hours of service.**

160 (1) Except as provided in Subsection (2), a vehicle operator may not drive:

161 (a) more than 10 hours following eight consecutive hours off duty; or

162 (b) if the total number of hours of on-duty time exceeds 70 hours in a period of eight  
163 consecutive days.

164 (2) In the event of an emergency or unforeseeable delay, a vehicle operator may drive  
165 for up to two hours above the hours described in Subsection (1) to complete an assignment or  
166 to deliver passengers to a safe location.

167 (3) (a) Each vehicle operator shall maintain and keep current a daily log book detailing  
168 the hours worked.

169 (b) Each vehicle operator shall keep the log book in the vehicle operator's possession at  
170 all times when on duty and shall include the daily logs for the past 30 working days.

171 (c) The log book shall be made available for inspection upon the request of the  
172 department, a law enforcement officer, or a passenger.

173 (4) A contract railroad employee motor carrier shall maintain and retain, for a period of  
174 six months, accurate time records showing:

175 (a) the time the vehicle operator reports for duty each day;

176 (b) the total number of hours the vehicle operator is on duty each day; and

177 (c) the time the vehicle operator is released from duty each day.

178 Section 9. Section **72-9-809** is enacted to read:

179 **72-9-809. Penalties.**

180 A violation of any provision under this part by a contract railroad employee motor

181 carrier or a vehicle operator or a failure to perform any act required under this part by a contract  
182 railroad employee motor carrier or a vehicle operator is a class C misdemeanor. Every  
183 violation of a provision of the Utah Constitution or statute is a separate and distinct offense.

184 Section 10. Section **72-9-810** is enacted to read:

185 **72-9-810. Civil penalties.**

186 (1) In addition to any other penalties, a contract railroad employee motor carrier that  
187 fails or neglects to comply with any provision of the Utah Constitution, statute, or any rule or  
188 order of the department is subject to a civil penalty of not more than \$1,000 for each offense.

189 (2) (a) Every violation of a provision of the Utah Constitution, statute, or any rule or  
190 order of the department is a separate and distinct offense.

191 (b) Each day's continuance of a violation is a separate and distinct offense.

192 (3) (a) The department may reduce the civil penalty in a compromise with the person  
193 alleged to have committed a civil penalty under this section.

194 (b) In determining the amount of the penalty or the amount agreed upon in a  
195 compromise, the department shall consider the:

196 (i) gravity of the violation; and

197 (ii) good faith of the person charged in attempting to achieve compliance after  
198 notification of the violation.

199 (c) The amount of the penalty when finally determined or the amount agreed upon in a  
200 compromise may be deducted from any sums owed by the state to the person charged or may  
201 be recovered in a civil action in the courts of the state.

202 (4) In construing and enforcing the provisions of this part relating to penalties, the act,  
203 omission, or failure of an officer, agent, or employee of a contract railroad employee motor  
204 carrier, acting within the scope of the person's official duties or employment, is considered to  
205 be the act, omission, or failure of the contract railroad employee motor carrier.