

HB0351S01 compared with HB0351

~~deleted text~~ shows text that was in HB0351 but was deleted in HB0351S01.

Inserted text shows text that was not in HB0351 but was inserted into HB0351S01.

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Representative Elizabeth Weight proposes the following substitute bill:

RAILROAD WORKER SAFETY AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Elizabeth Weight

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Railroads code by amending provisions relating to safety standards for railroad walkways.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a railroad to:
 - provide a walkway adjacent to tracks in all areas where railroad or industrial employees are required to perform trackside duties;
 - keep each walkway clean and free of weeds, debris, and other materials, equipment, and other hazards, that might tend to interfere with the footing of railroad or industrial employees performing trackside duties; and

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- construct and maintain each walkway to insure proper drainage and prevent pooling of water, oil, or other liquids;
- ▶ specifies standards for the construction and maintenance of railroad walkways;
- ▶ specifies exceptions to the railroad walkway construction and maintenance standards;
- ▶ ~~{grants the Public Service Commission}~~specifies the railroad walkways to which the standards apply;
- ▶ grants the Department of Transportation rulemaking authority to establish additional construction and maintenance standards;
- ▶ requires a railroad to furnish the ~~{Public Service Commission}~~Department of Transportation with any necessary information and allow inspections by the commission for the enforcement of the railroad walkway standards; and
- ▶ specifies procedures and penalties for the enforcement of the railroad walkway construction and maintenance standards.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

56-4-101, Utah Code Annotated 1953

56-4-102, Utah Code Annotated 1953

56-4-103, Utah Code Annotated 1953

56-4-104, Utah Code Annotated 1953

56-4-105, Utah Code Annotated 1953

56-4-106, Utah Code Annotated 1953

56-4-107, Utah Code Annotated 1953

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

Section 1. Section **56-4-101** is enacted to read:

CHAPTER 4. RAILROAD WORKER SAFETY ACT

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56-4-101. Title.

This chapter is known as the "Railroad Worker Safety Act."

Section 2. Section **56-4-102** is enacted to read:

56-4-102. Definitions.

As used in this chapter:

(1) "~~{Commission}~~Department" means the ~~{Public Service Commission}~~Department of Transportation established in Section ~~{54-1-1}~~72-1-201.

(2) "Railroad" means the same as that term is defined in 49 U.S.C. Sec. 20102.

(3) "Trackside duties" means:

(a) switching or inspecting trains stopped by trackside detectors;

(b) performing air tests; or

(c) performing train inspections.

(4) "Walkway" means an area located alongside or in the vicinity of a railroad track~~{,~~ or on a trestle or bridge, that provides space so a railroad employee can perform duties associated with the track~~{, trestle, or bridge}~~.

Section 3. Section **56-4-103** is enacted to read:

56-4-103. Railroad walkway safety requirements.

(1) ~~{A}~~Subject to Subsection (6), a railroad shall:

(a) provide a walkway adjacent to tracks in all areas where railroad or industrial employees are required to perform trackside duties more than two days per week on average over a one year period;

(b) keep each walkway clean and free of weeds, debris, and other materials, equipment, and other hazards, that might tend to interfere with the footing of railroad or industrial employees performing trackside duties; and

(c) construct and maintain each walkway in accordance with the requirements of this section to insure proper drainage and prevent pooling of water, oil, or other liquids.

(2) A walkway shall:

(a) be a minimum width of two feet; and

(b) have a uniform regular surface with a gradual slope not to exceed one inch of elevation for each eight inches of horizontal length in any direction.

(3) (a) A walkway may be surfaced with:

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(i) asphalt;

(ii) concrete;

(iii) planking;

(iv) grating;

(v) native material;

(vi) crushed material; or

(vii) other similar material.

(b) If crushed material is used under Subsection (3)(a)(vi):

(i) 100% of the material shall be capable of passing through a 1-½ inches square sieve opening;

(ii) 90% of the material shall be capable of passing through a one inch square sieve opening; and

(iii) smaller crushed material is preferable, where drainage and durability issues do not arise.

(c) If a walkway is located in an area where heavy foot traffic exists, including walkways near train yards and manually operated switches, the uniform surface material used shall be no larger than 3/8 inch fine.

(4) The center of tracks shall be kept clean and free from all foreign materials that tend to build up between rails causing poor footing and deterioration of track components.

(5) (a) Walkway standards described in this section do not apply to a walkway adjacent to:

(i) tracks in a street or tunnel;

(ii) ~~an existing~~ a bridge;

(iii) a grade separation structure;

(iv) a railroad-highway crossing;

(v) ~~an existing~~ a trestle;

(vi) a cattle guard;

(vii) tracks adjacent to a walk, abutment, platform, pillar, or structure where minimum widths are otherwise provided;

(viii) tracks where there is insufficient width of right-of-way, except that standards in this section shall apply to the full width of right-of-way available; or

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(ix) tracks during periods of damage or obstruction due to heavy rain or snow, derailments, rock and earth slides, and other abnormal periods.

(b) A walkway described in Subsection (5)(a)(ix) shall be brought back into compliance with this section within 30 days after the damage or obstruction occurred.

(6) (a) Except as provided in Subsection (6)(b), this section applies to all new construction of walkways and yard tracks after May 8, 2018 and to the reconstruction of walkways and yard tracks after May 8, 2018.

(b) If the department finds, after notice and hearing, that railroad employees who frequently work adjacent to a portion of track performing switching activities are exposed to safety hazards due to the lack of a walkway or to the condition of a walkway constructed before May 8, 2018, the department may:

(i) order a railroad to construct a walkway adjacent to a portion of track where employees are performing switching activities within a reasonable period of time; or

(ii) require a railroad to modify an existing walkway in conformance with the standards required in this section within a reasonable period of time.

(~~6~~7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the ~~commission~~department may adopt rules governing safe walkways for railroad workers in areas where work is ~~regularly~~ performed on the ground more than two days per week on average over a one year period.

Section 4. Section **56-4-104** is enacted to read:

56-4-104. Duty of railroads to comply -- Inspection by commission.

(1) A railroad or a person engaged in the operation of a railroad shall:

(a) comply with any regulation or order of the ~~commission~~department issued under the provisions of this chapter; and

(b) furnish any information required by the ~~commission~~department for purposes of this chapter.

(2) The ~~commission~~department or its authorized agent may, during reasonable hours, enter the place of operation of a railroad to determine whether a railroad is complying with the standards prescribed by this chapter.

Section 5. Section **56-4-105** is enacted to read:

56-4-105. Agency actions.

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(1) An employee may file a request for agency action with the {commission}department charging a violation of:

(a) this chapter; or

(b) a {commission}department rule prescribed in accordance with Subsection 56-4-103(6).

(2) The {commission}department may initiate an action by filing a notice of agency action.

Section 6. Section **56-4-106** is enacted to read:

56-4-106. Judicial review.

(1) A party aggrieved by an order of the {commission}department may obtain judicial review.

(2) Venue for judicial review of informal adjudicative proceedings under this chapter is in the district court of the county in which the place of employment is located.

Section 7. Section **56-4-107** is enacted to read:

56-4-107. Failure to comply with order or regulation -- Penalty.

(1) A person failing to comply with an order or regulation of the {commission}department authorized by this chapter shall be liable for a penalty of {~~\$25~~}\$250 for each day of noncompliance.

(2) The attorney general shall file suit on behalf of the state for any unpaid penalty within one year after the penalty accrues.

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Legislative Review Note

Office of Legislative Research and General Counsel