

## HB0072S01 compared with HB0072

~~deleted text~~ shows text that was in HB0072 but was deleted in HB0072S01.

inserted text shows text that was not in HB0072 but was inserted into HB0072S01.

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Representative Elizabeth Weight proposes the following substitute bill:

### RAILROAD WORKER SAFETY AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Elizabeth Weight**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill establishes safety standards for walkways adjacent to railroad tracks.

##### 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 vegetation, 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
  - construct and maintain each walkway to insure proper drainage and prevent

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pooling of water, oil, or other liquids;

- ▶ exempts from the chapter an entity that provides public transit in this state;
- ▶ specifies standards for the construction and maintenance of railroad walkways;
- ▶ specifies exceptions to the railroad walkway construction and maintenance standards;
- ▶ grants the Department of Transportation rulemaking authority to establish additional construction and maintenance standards;
- ▶ requires a railroad to furnish the Department of Transportation with any necessary information and allow inspections by the department 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

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*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**

#### **56-4-101. Title.**

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

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

### **56-4-102. Definitions.**

As used in this chapter:

- (1) "Department" means the Department of Transportation established in Section 72-1-201.
- (2) "Public transit" means the same as that term is defined in Section 17B-2a-802.
- (3) "Railroad" means the same as that term is defined in 49 U.S.C. Sec. 20102.
- (4) "Trackside duties" means:
  - (a) switching or inspecting trains stopped by trackside detectors;
  - (b) performing air tests; or
  - (c) performing train inspections.
- (5) "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 railroad corporation shall:
  - (a) provide a walkway adjacent to tracks in all areas where railroad or industrial employees are required to perform trackside duties;
  - (b) maintain each walkway in a safe condition, clear of vegetation, debris, standing water, and other obstructions, equipment, and 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 ensure proper drainage and prevent pooling of water, oil, or other liquids.
- (2) A walkway shall:
  - (a) be constructed to a minimum width of eight feet and six inches, as measured from the centerline of the track;
  - (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; and
  - (c) be constructed and maintained in such a manner that the elevation of the walkway's top surface is at least level with the ~~bottom~~top of ties, but not higher than the top of rail.

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(3) A walkway shall be located:

(a) on both sides of track with a minimum distance of 125 feet on each side of every switch stand or other trackside switch-throwing mechanism; and

(b) around all derail switch stands.

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

(i) asphalt;

(ii) concrete;

(iii) planking;

(iv) grating;

(v) native material;

(vi) AREMA Standard 57 ballast; or

(vii) other similar material.

(b) If a walkway is located in an area where crews are working in the area two or more days per week, including walkways within one mile of a train yard or manually operated switches, the uniform surface material used shall be no larger than 3/8 inch fine.

(5) The area between 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.

(6) (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 bridge;

(iii) a grade separation structure;

(iv) a railroad-highway crossing;

(v) an existing trestle;

(vi) a cattle guard; or

(vii) tracks during periods of damage or obstruction due to heavy rain or snow, derailments, rock and earth slides, and other noncompliance that may exist during an emergency.

(b) A walkway described in Subsection (6)(a)(vii) shall be brought back into compliance with this section within 30 days after the damage or obstruction occurred.

(c) A railroad corporation shall seek a waiver from compliance to relevant walkway

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standards described in this section if the walkway is adjacent to:

(i) tracks adjacent to a walk, abutment, platform, pillar, or structure where minimum widths are not available; or

(ii) 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.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may adopt rules governing safe walkways for railroad workers in areas where work is regularly performed on the ground.

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

### **56-4-104. Duty of railroads to comply -- Inspection by department.**

(1) A railroad corporation shall:

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

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

(2) The department or the department's 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.

(3) This chapter does not apply to an entity that provides public transit in this state.

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

### **56-4-105. Agency actions.**

(1) ~~{An}~~Subject to Subsection (2), an employee may file a request for agency action with the department ~~{charging}~~alleging a violation of:

(a) this chapter; or

(b) a department rule ~~{prescribed}~~made in accordance with Subsection 56-4-103(7).

(2) (a) An employee may not file a request for agency action of an alleged violation of this chapter unless the employee has attempted to address the alleged allegations with the railroad corporation.

(b) Any request for agency action alleging a violation of this chapter shall contain a written statement that the employee filing the request for agency action has made a reasonable, good faith attempt to address the alleged violation with the railroad corporation.

~~{2}~~3 The department may initiate an action by filing a notice of agency action.

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

**56-4-106. Judicial review.**

(1) A party aggrieved by an order of the 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 railroad corporation failing to comply with an order or regulation of the department authorized by this chapter shall be liable for a penalty of \$1,500 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.