

DEDICATION OF PUBLIC HIGHWAYS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Transportation Code by amending provisions relating to the dedication of public highways.

Highlighted Provisions:

This bill:

- ▶ modifies the requirements for an interruption of continuous use of a highway as a public thoroughfare;
- ▶ provides that a property owner's interruption of continuous use of a highway as a public thoroughfare restarts the running of the 10-year period of continuous use required for the dedication of a public highway;
- ▶ provides that a property owner's interruption of a right-of-way created after dedication has no effect on the validity of the state's ~~§~~ **or local highway authority's** ~~§~~ claim to the right-of-way;
- ▶ removes certain limitations regarding the applicability of the dedication and interruption provisions; and
- ▶ removes language providing legislative intent.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



59 (5) Installation of gates and posting of no trespassing signs are relevant forms of
 60 evidence but are not solely determinative of whether an interruption under Subsection (4) has
 61 occurred.

62 ~~[(6) If the highway authority having jurisdiction of the highway, street, or road
 63 demands that an interruption cease or that a barrier or barricade blocking public access be
 64 removed and the property owner accedes to the demand, the attempted interruption does not
 65 constitute an interruption under Subsection (4).]~~

66 (6) A property owner's interruption under Subsection (4) of a highway, street, or road
 67 where the requirement of continuous use under Subsection (2) is not satisfied restarts the
 68 running of the 10-year period of continuous use required for dedication under Subsection (2).

69 (7) (a) The burden of proving dedication under Subsection (2) is on the party asserting
 70 the dedication.

71 (b) The burden of proving interruption under Subsection (4) is on the party asserting
 72 the interruption.

73 (8) (a) The dedication and abandonment creates a right-of-way held by the state ~~Ŝ~~ **→ or a**
 73a **local highway authority ←Ŝ** in
 74 accordance with Sections [72-3-102](#), [72-3-104](#), [72-3-105](#), and [72-5-103](#).

75 (b) A property owner's interruption under Subsection (4) of a right-of-way held by the
 76 state ~~Ŝ~~ **→ or local highway authority ←Ŝ** in accordance with Subsection (8)(a) has no effect on the
 76a validity of the state's ~~Ŝ~~ **→ or local highway authority's ←Ŝ** claim to
 77 the right-of-way and does not return the right-of-way to private ownership or use.

78 (9) The scope of ~~[the]~~ a right-of-way described in Subsection (8)(a) is that which is
 79 reasonable and necessary to ensure safe travel according to the facts and circumstances.

80 ~~[(10) (a) The provisions of this section apply to any claim under this section for which
 81 a court of competent jurisdiction has not issued a final unappealable judgment or order.]~~

82 ~~[(b) The Legislature finds that the application of this section:]~~

83 ~~[(i) does not enlarge, eliminate, or destroy vested rights; and]~~

84 ~~[(ii) clarifies legislative intent in light of Utah Supreme Court rulings in Wasatch
 85 County v. Okelberry, 179 P.3d 768 (Utah 2008), Town of Leeds v. Prisbrey, 179 P.3d 757
 86 (Utah 2008), and Utah County v. Butler, 179 P.3d 775 (Utah 2008).]~~