

1 **RAILROAD AND RAILROAD CROSSING AMENDMENTS**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Richard A. Greenwood**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions relating to railroads and railroad crossings.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ provides and amends definitions;
- 13 ▶ prohibits an operator of a vehicle from making a U-turn or turning the vehicle to
- 14 proceed in the opposite direction on a railroad track or railroad crossing grade;
- 15 ▶ prohibits a pedestrian from entering or remaining within the area between a railroad
- 16 track and a railroad sign while the sign or signal is active;
- 17 ▶ provides that a person is guilty of criminal trespass on restricted railroad property if
- 18 the person knowingly, intentionally, or recklessly enters or remains on restricted
- 19 railroad property and provides penalties for criminally trespassing on restricted
- 20 railroad property; and
- 21 ▶ makes technical changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:



- 28 **41-6a-802**, as renumbered and amended by Laws of Utah 2005, Chapter 2
- 29 **41-6a-1005**, as renumbered and amended by Laws of Utah 2005, Chapter 2
- 30 **56-1-18.5**, as last amended by Laws of Utah 2010, Chapter 324
- 31 **76-6-106**, as last amended by Laws of Utah 2010, Chapter 193

32 ENACTS:

33 **76-6-206.4**, Utah Code Annotated 1953



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

36 Section 1. Section **41-6a-802** is amended to read:

37 **41-6a-802. Turning around -- Where prohibited -- Visibility.**

38 (1) As used in this section, "railroad crossing grade" means the area between the
39 passive or active warning signs where a railroad track and roadway intersect.

40 (2) The operator of a vehicle may not make a U-turn or turn the vehicle to proceed in
41 the opposite direction:

42 ~~[(1)]~~ (a) unless the movement can be made safely and without interfering with other
43 traffic; ~~[or]~~

44 ~~[(2)]~~ (b) on any curve, or upon the approach to, or near the crest of a grade, if the
45 vehicle is not visible at a distance of 500 feet by the operator of any other vehicle approaching
46 from either direction~~[-]; or~~

47 (c) on a railroad track or railroad crossing grade.

48 Section 2. Section **41-6a-1005** is amended to read:

49 **41-6a-1005. Passing closed railroad or bridge gate or barrier prohibited.**

50 (1) A pedestrian may not pass through, around, over, under, or remain on a crossing
51 gate or barrier at a railroad crossing or bridge while the gate or barrier is closed or is being
52 opened or closed.

53 (2) A pedestrian may not enter or remain within the area between a railroad track and a
54 railroad sign or signal while the railroad sign or signal is active at the railroad train crossing.

55 Section 3. Section **56-1-18.5** is amended to read:

56 **56-1-18.5. Railroad property -- Duty of care.**

57 ~~[(1) A person may not ride or climb or attempt to ride or climb on, off, under, over, or~~
58 ~~across a railroad locomotive, car, or train.]~~

59 ~~[(2) A person may not walk, ride, or travel across, along, or upon railroad yards, tracks,~~
60 ~~bridges, or active rights-of-way at any location other than public crossings.]~~

61 ~~[(3) A person may not intentionally obstruct or interfere with train operations or use~~
62 ~~railroad property for recreational purposes.]~~

63 ~~[(4)]~~ (1) (a) Except as provided under Subsection ~~[(4)]~~ (1)(b), an owner or operator of a
64 railroad, including its officers, agents, and employees, owes no duty of care to keep railroad
65 yards, tracks, bridges, or active rights-of-way safe for entry for ~~[any person violating this~~
66 ~~section:]~~ a person who:

67 (i) rides or climbs or attempts to ride or climb on, off, under, over, or across a railroad
68 locomotive, car, or train;

69 (ii) walks, rides, or travels across, along, or upon railroad yards, tracks, bridges, or
70 active rights-of-way at any location other than public crossings;

71 (iii) intentionally obstructs or interferes with train operations or uses railroad property
72 for recreational purposes; or

73 (iv) otherwise criminally trespasses on railroad property in violation of Section
74 76-6-206.4.

75 (b) The owner or operator of a railroad may not intentionally, willfully, or maliciously
76 injure a person if the owner or operator has actual knowledge of the person's presence on the
77 property.

78 ~~[(5)]~~ (2) This section does not apply to a railroad employee, business invitee, or other
79 person with express written or oral authorization to enter upon railroad property by the owner
80 or operator of the railroad.

81 ~~[(6)]~~ (3) This section does not modify any rights or duties of federal, state, county, or
82 municipal officials in the performance of their duties.

83 Section 4. Section **76-6-106** is amended to read:

84 **76-6-106. Criminal mischief.**

85 (1) As used in this section, "critical infrastructure" includes:

86 (a) information and communication systems;

87 (b) financial and banking systems;

88 (c) any railroads, airlines, airports, airways, highways, bridges, waterways, or other
89 transportation systems intended for the transportation of persons or property;

90 (d) any public utility service, including the power, energy, and water supply systems;

91 (e) sewage and water treatment systems;

92 (f) health care facilities as listed in Section 26-21-2, and emergency fire, medical, and
93 law enforcement response systems;

94 (g) public health facilities and systems;

95 (h) food distribution systems; and

96 (i) other government operations and services.

97 (2) A person commits criminal mischief if the person:

98 (a) under circumstances not amounting to arson, damages or destroys property with the
99 intention of defrauding an insurer;

100 (b) intentionally and unlawfully tampers with the property of another and as a result:

101 (i) recklessly endangers:

102 (A) human life; or

103 (B) human health or safety; or

104 (ii) recklessly causes or threatens a substantial interruption or impairment of any
105 critical infrastructure;

106 (c) intentionally damages, defaces, or destroys the property of another; or

107 (d) recklessly or willfully shoots or propels a missile or other object at or against a
108 motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving
109 or standing.

110 (3) (a) (i) A violation of Subsection (2)(a) is a third degree felony.

111 (ii) A violation of Subsection (2)(b)(i)(A) is a class A misdemeanor.

112 (iii) A violation of Subsection (2)(b)(i)(B) is a class B misdemeanor.

113 (iv) A violation of Subsection (2)(b)(ii) is a second degree felony.

114 (b) Any other violation of this section is a:

115 (i) second degree felony if the actor's conduct causes or is intended to cause pecuniary
116 loss equal to or in excess of \$5,000 in value;

117 (ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary
118 loss equal to or in excess of \$1,500 but is less than \$5,000 in value;

119 (iii) class A misdemeanor if the actor's conduct causes or is intended to cause
120 pecuniary loss equal to or in excess of \$500 but is less than \$1,500 in value; and

121 (iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary
122 loss less than \$500 in value.

123 (4) In determining the value of damages under this section, or for computer crimes
124 under Section 76-6-703, the value of any item, computer, computer network, computer
125 property, computer services, software, or data includes the measurable value of the loss of use
126 of the items and the measurable cost to replace or restore the items.

127 (5) In addition to any other penalty authorized by law, a court shall order any person
128 convicted of any violation of this section to reimburse any federal, state, or local unit of
129 government, or any private business, organization, individual, or entity for all expenses
130 incurred in responding to a violation of Subsection (2)(b)(ii), unless the court states on the
131 record the reasons why the reimbursement would be inappropriate.

132 Section 5. Section **76-6-206.4** is enacted to read:

133 **76-6-206.4. Criminal trespass on restricted railroad property.**

134 (1) As used in this section:

135 (a) "Ballast" means the rock that forms the bed for the railroad track and that supports
136 the track infrastructure.

137 (b) "Enter" means intrusion of the entire body.

138 (c) "Restricted railroad property" means:

139 (i) any railroad locomotive, car, train, track, ballast, bridge, building, or equipment; or

140 (ii) any real property of a railroad as to which notice against entering is given by:

141 (A) personal communication to the actor by someone with apparent authority to act for
142 the railroad;

143 (B) fencing or other enclosure obviously designed to exclude intruders; or

144 (C) posting of signs reasonably likely to come to the attention of intruders.

145 (2) A person is guilty of criminal trespass on restricted railroad property if, under
146 circumstances not amounting to burglary as defined in Section 76-6-202, 76-6-203, or
147 76-6-204 or a violation of Section 76-10-2402 regarding commercial obstruction, the person
148 knowingly, intentionally, or recklessly enters or remains on restricted railroad property.

149 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is an
150 infraction.

151 (b) A violation of Subsection (2) is a class B misdemeanor if the person:

- 152 (i) intends to interfere with railroad operations or cause annoyance or injury to any
- 153 person or damage to any property, including the use of graffiti as defined in Section 76-6-107;
- 154 (ii) intends to commit any crime, other than theft or a felony;
- 155 (iii) is reckless as to whether the person's presence will cause fear for the safety of any
- 156 person; or
- 157 (iv) recklessly interferes with railroad operations.
- 158 (4) It is a defense to prosecution under this section that the person:
- 159 (a) was present on the restricted property in the person's capacity as an employee,
- 160 passenger, contractor, or invitee of the railroad; or
- 161 (b) had permission to be on the restricted railroad property from a person with apparent
- 162 authority to act for the railroad.

Legislative Review Note
as of 11-30-10 10:25 AM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 252

SHORT TITLE: **Railroad and Railroad Crossing Amendments**

SPONSOR: **Greenwood, R.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill will increase caseloads among local justice courts for newly created violations in this bill. For each violation, the local justice court will generate \$30 in revenue.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Violators of the provisions in this bill will be assessed a \$30 fine.