

RAILROAD CROSSING REVISIONS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gene Davis

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to railroad crossings.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ renumbers and amends sections relating to railroad crossings;
- ▶ specifies that the Department of Transportation, rather than the Public Service

Commission, has exclusive jurisdiction for the resolution of disputes for actions taken regarding railroad crossings;

▶ requires the Department of Transportation to comply with the Administrative Procedures Act when resolving disputes for actions taken regarding railroad crossings;

▶ grants the Department of Transportation rulemaking authority to make rules establishing:

- procedures for a person to submit a petition for resolution for any person aggrieved by an action of the department regarding railroad crossings; or

- standards for the administration and enforcement of certain railroad crossing provisions; and

- ▶ makes technical corrections.

Money Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 ENACTS:

33 **72-14-101**, Utah Code Annotated 1953

34 **72-14-102**, Utah Code Annotated 1953

35 RENUMBERS AND AMENDS:

36 **72-14-103**, (Renumbered from 54-4-15, as last amended by Laws of Utah 1999,
37 Chapter 190)

38 **72-14-104**, (Renumbered from 54-4-15.1, as last amended by Laws of Utah 1975, First
39 Special Session, Chapter 9)

40 **72-14-105**, (Renumbered from 54-4-15.2, as last amended by Laws of Utah 2011,
41 Chapter 342)

42 **72-14-106**, (Renumbered from 54-4-15.3, as last amended by Laws of Utah 1975, First
43 Special Session, Chapter 9)

44 **72-14-107**, (Renumbered from 54-4-15.4, as last amended by Laws of Utah 1975, First
45 Special Session, Chapter 9)



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

48 Section 1. Section **72-14-101** is enacted to read:

49 **CHAPTER 14. REGULATION OF RAILROAD CROSSINGS ACT**

50 **72-14-101. Title.**

51 This chapter is known as the "Regulation of Railroad Crossings Act."

52 Section 2. Section **72-14-102** is enacted to read:

53 **72-14-102. Definitions.**

54 As used in this chapter:

55 (1) "Crossing" means the general area where a highway and a railroad cross and within
56 which are included the railroad, highway, and roadside facility for public traffic traversing the
57 area.

58 (2) "Grade crossing" means a crossing at the same level.

59 (3) "Railroad" means all rail carriers, whether publicly or privately owned, and
 60 common carriers, including line haul freight and passenger railroads, public transit districts,
 61 switching and terminal railroads, passenger carrying railroads such as rapid transit, and
 62 commuter and street railroads.

63 Section 3. Section **72-14-103**, which is renumbered from Section 54-4-15 is
 64 renumbered and amended to read:

65 ~~[54-4-15].~~ **72-14-103. Establishment and regulation of grade crossings.**

66 (1) ~~[No track of any railroad shall be constructed]~~ (a) Unless a railroad has obtained
 67 permission from the department, a railroad may not construct:

68 (i) a track across a public road, highway, or street at grade~~[, nor shall the track of any~~
 69 ~~railroad corporation be constructed];~~ or

70 (ii) a track across the track of any other railroad ~~[or street railroad corporation]~~ at
 71 grade~~[, nor shall the track of a street railroad corporation be constructed across the track of a~~
 72 ~~railroad corporation at grade, without the permission of the Department of Transportation~~
 73 ~~having first been secured; provided, that this subsection shall].~~

74 (b) The requirement to obtain the department's permission under Subsection (1)(a) does
 75 not apply to the replacement of lawfully existing tracks.

76 (c) The department ~~[shall have the right to]~~ may refuse its permission or ~~[to]~~ grant it
 77 upon such terms and conditions as it may prescribe.

78 (2) The department shall have the power to:

79 (a) determine and prescribe the manner, including the particular point of crossing, and
 80 the terms of installation, operation, maintenance, use, and protection of each crossing of:

81 (i) one railroad by another railroad ~~[or street railroad, and of a street railroad by a~~
 82 ~~railroad and of each crossing of];~~

83 (ii) a public road, street, or highway by a railroad ~~[or street railroad, and of a street by a~~
 84 ~~railroad or vice versa, and to];~~ or

85 (iii) a railroad by a public road, street, or highway;

86 (b) alter or abolish any ~~[such]~~ crossing~~[, to];~~

87 (c) restrict the use of ~~[such]~~ crossings to certain types of traffic in the interest of public
 88 safety; ~~[and is vested with power and it shall be its duty to]~~

89 (d) designate the ~~[railroad]~~ crossings to be traversed by school buses and motor

90 vehicles carrying passengers for hire~~[, and to]~~;

91 (e) require, where in its judgment it would be practicable, a separation of grades at any
92 such crossing heretofore or hereafter established~~[, and to]~~; and

93 (f) prescribe the terms upon which [such] a separation of grades at a crossing shall be
94 made and the proportions in which the expense of the alteration or abolition of [such crossings]
95 a crossing or the separation of [such] grades at a crossing shall be divided between [the railroad
96 or street railroad corporations affected, or between such corporations]:

97 (i) the railroads affected; or

98 (ii) the railroads affected and the state, county, municipality, or other public authority
99 in interest.

100 (3) Whenever the department shall find that public convenience and necessity demand
101 the establishment, creation, or construction of a crossing of a road, street, or highway over,
102 under, or upon the tracks or lines of any public utility as defined in Section 54-2-1, the
103 department may by order, decision, rule, or decree require the establishment, construction, or
104 creation of such crossing, and such crossing shall thereupon become a public highway and
105 crossing.

106 (4) (a) The ~~[commission]~~ department retains exclusive jurisdiction for the resolution of
107 any dispute upon petition by any person aggrieved by any action of the department pursuant to
108 this section~~[, except as provided under Subsection (4)(b)].~~

109 ~~[(b) If a petition is filed by a person or entity engaged in a subject activity, as defined in~~
110 ~~Section 19-3-318, the commission's decision under Subsection (4)(a) regarding resolution of a~~
111 ~~dispute requires the concurrence of the governor and the Legislature in order to take effect.]~~

112 (b) The department shall comply with the procedures and requirements of Title 63G,
113 Chapter 4, Administrative Procedures Act, in:

114 (i) resolving disputes under Subsection (4)(a); and

115 (ii) the administration and enforcement of this chapter.

116 (c) The district courts shall have jurisdiction to review by trial de novo all final orders
117 of the department under this chapter resulting from formal and informal adjudicative
118 proceedings.

119 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
120 department shall make rules establishing:

121 (i) procedures for a person to submit a petition for resolution for any person aggrieved
122 by an action of the department pursuant to this chapter; or

123 (ii) standards for the administration and enforcement of this chapter.

124 Section 4. Section **72-14-104**, which is renumbered from Section 54-4-15.1 is
125 renumbered and amended to read:

126 ~~[54-4-15.1].~~ **72-14-104. Signals or devices at grade crossings -- Duty to provide.**

127 The [~~Department of Transportation~~] department, so as to promote the public safety,
128 shall [~~as prescribed in this act~~] provide for the installing, maintaining, reconstructing, and
129 improving of automatic and other safety appliances, signals₂ or devices at grade crossings on
130 public roads, streets, or highways [~~or roads~~] over the tracks of any railroad [~~or street railroad~~
131 ~~corporation~~] in the state.

132 Section 5. Section **72-14-105**, which is renumbered from Section 54-4-15.2 is
133 renumbered and amended to read:

134 ~~[54-4-15.2].~~ **72-14-105. Signals or devices at grade crossings -- Funds for**
135 **payment of costs.**

136 The funds provided by the state for purposes of this [~~act~~] chapter shall be used in
137 conjunction with other available money, including money received from federal sources, to pay
138 all or part of the cost of the installation, maintenance, reconstruction₂ or improvement of any
139 signals or devices described in Section [~~54-4-15.1~~] 72-14-104 at any grade crossing of a public
140 road, street, or highway [~~or any road~~] over the tracks of any railroad [~~or street railroad~~
141 ~~corporation~~] in this state.

142 Section 6. Section **72-14-106**, which is renumbered from Section 54-4-15.3 is
143 renumbered and amended to read:

144 ~~[54-4-15.3].~~ **72-14-106. Signals or devices at grade crossings -- Apportionment**
145 **of costs.**

146 (1) The Department of Transportation, in accordance with the provisions of Section
147 [~~54-4-15~~] 72-14-103, shall apportion the cost of the installation, maintenance, reconstruction,
148 or improvement of any signals or devices described in Section [~~54-4-15.1~~] 72-14-104 between
149 the railroad [~~or street railroad~~] and the public agency involved.

150 (2) Unless otherwise ordered by the department, the liability of cities, towns, and
151 counties to pay the share of maintenance cost assigned to the local agencies by the department

152 shall be limited to the funds provided under this act.

153 (3) Payment of any money from the funds provided shall be made on the basis of
154 verified claims filed with the Department of Transportation by the railroad [~~or street railroad~~
155 ~~corporation~~] responsible for the physical installation, maintenance, reconstruction, or
156 improvement of the signal or device.

157 Section 7. Section ~~72-14-107~~, which is renumbered from Section 54-4-15.4 is
158 renumbered and amended to read:

159 ~~[54-4-15.4].~~ 72-14-107. Signals or devices at grade crossings -- Provision of
160 costs.

161 The [~~Department of Transportation~~] department shall provide in its annual budget for
162 the costs to be incurred under this [~~act~~] chapter.

Legislative Review Note
as of 2-21-14 8:45 AM

Office of Legislative Research and General Counsel