

1                    **DEPARTMENT OF TRANSPORTATION LIABILITY**

2                                    **AMENDMENTS**

3    2013 GENERAL SESSION

4    STATE OF UTAH

5                                    **Chief Sponsor: Lyle W. Hillyard**

6                                    House Sponsor: Derek E. Brown

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8                    **LONG TITLE**

9                    **General Description:**

10                    This bill modifies the Transportation Code by amending provisions relating to the  
11 Department of Transportation's duty for liability purposes.

12                    **Highlighted Provisions:**

13                    This bill:

14                    ▶ provides that the Department of Transportation shall exercise reasonable care in  
15 designing, constructing, and maintaining a state highway in a reasonably safe  
16 condition for travel;

17                    ▶ provides that nothing in the Department of Transportation's defined responsibilities  
18 shall be construed as:

- 19                    • creating a private right of action; or
- 20                    • expanding or changing the department's common law duty for liability purposes;

21 and

22                    ▶ makes technical corrections.

23                    **Money Appropriated in this Bill:**

24                    None

25                    **Other Special Clauses:**

26                    None

27                    **Utah Code Sections Affected:**

28                    AMENDS:

29                    **72-1-201**, as last amended by Laws of Utah 2011, Chapter 66

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31 *Be it enacted by the Legislature of the state of Utah:*32 Section 1. Section **72-1-201** is amended to read:33 **72-1-201. Creation of Department of Transportation -- Functions, powers, duties,**  
34 **rights, and responsibilities.**35 (1) There is created the Department of Transportation which shall:36 [~~(1)~~] (a) have the general responsibility for planning, research, design, construction,  
37 maintenance, security, and safety of state transportation systems;38 [~~(2)~~] (b) provide administration for state transportation systems and programs;39 [~~(3)~~] (c) implement the transportation policies of the state;40 [~~(4)~~] (d) plan, develop, construct, and maintain state transportation systems that are  
41 safe, reliable, environmentally sensitive, and serve the needs of the traveling public, commerce,  
42 and industry;43 [~~(5)~~] (e) establish standards and procedures regarding the technical details of  
44 administration of the state transportation systems as established by statute and administrative  
45 rule;46 [~~(6)~~] (f) advise the governor and the Legislature about state transportation systems  
47 needs;48 [~~(7)~~] (g) coordinate with utility companies for the reasonable, efficient, and  
49 cost-effective installation, maintenance, operation, relocation, and upgrade of utilities within  
50 state highway rights-of-way;51 [~~(8)~~] (h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
52 Act, make policy and rules for the administration of the department, state transportation  
53 systems, and programs; and54 [~~(9)~~] (i) annually report to:55 [~~(a)~~] (i) the Transportation Interim Committee, by November 30 of each year, as to the  
56 operation and maintenance needs for highways; and57 [~~(b)~~] (ii) an appropriate legislative committee as designated by the Legislative

58 Management Committee the transfers that need to be made between all transportation-related  
59 funds to maintain the state highway construction program as prioritized by the commission.

60 (2) (a) The department shall exercise reasonable care in designing, constructing, and  
61 maintaining a state highway in a reasonably safe condition for travel.

62 (b) Nothing in this section shall be construed as:

63 (i) creating a private right of action; or

64 (ii) expanding or changing the department's common law duty as described in

65 Subsection (2)(a) for liability purposes.