

Senator Karen Mayne proposes the following substitute bill:

TRANSPORT OF RAILROAD EMPLOYEES

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Transportation Code by enacting provisions related to contract motor carriers of railroad employees.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ establishes requirements for vehicle operators who transport railroad employees;
- ▶ establishes requirements for motor vehicles used to transport railroad employees;
- ▶ provides that a person is subject to a class C misdemeanor for violating a Railroad

Employee Safe Transportation Act provision; and

- ▶ provides that a contract railroad employee motor carrier or a vehicle operator is subject to civil penalties for violating a Railroad Employee Safe Transportation Act provision.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 ENACTS:

27 [72-9-801](#), Utah Code Annotated 1953

28 [72-9-802](#), Utah Code Annotated 1953

29 [72-9-803](#), Utah Code Annotated 1953

30 [72-9-804](#), Utah Code Annotated 1953

31 [72-9-805](#), Utah Code Annotated 1953

32 [72-9-806](#), Utah Code Annotated 1953

33 [72-9-807](#), Utah Code Annotated 1953

34 [72-9-808](#), Utah Code Annotated 1953

35 [72-9-809](#), Utah Code Annotated 1953

36 [72-9-810](#), Utah Code Annotated 1953

37

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

39 Section 1. Section [72-9-801](#) is enacted to read:

40 **Part 8. Railroad Employee Safe Transportation Act**

41 **[72-9-801](#). Title.**

42 This part is known as the "Railroad Employee Safe Transportation Act."

43 Section 2. Section [72-9-802](#) is enacted to read:

44 **[72-9-802](#). Definitions.**

45 As used in this section:

46 (1) (a) "Contract railroad employee motor carrier" means an owner of a business
47 engaged in transporting railroad employees as passengers in a motor vehicle designed to carry
48 eight or fewer passengers, including the driver, on a highway within the state.

49 (b) "Contract railroad employee motor carrier" does not mean a railroad company that
50 uses vehicles owned by the railroad company and operated by railroad employees to transport
51 railroad employees.

52 (2) "On-duty time" means the same as that term is defined in 49 C.F.R. Part 395.

53 (3) "Railroad" means the same as that term is defined in Section [41-6a-102](#).

54 (4) "Railroad company" means a company that operates a railroad within the state.

55 (5) "Railroad employee" means an employee in the course of an employee's
56 employment with a railroad company.

57 (6) "Serious traffic violation" means a conviction of any of the following:
58 (a) speeding 15 or more miles per hour above the posted speed limit;
59 (b) reckless driving as defined in Section [41-6a-528](#);
60 (c) an improper or erratic traffic lane change;
61 (d) following the vehicle ahead too closely; or
62 (e) any other motor vehicle traffic law that arises in connection with a fatal traffic
63 accident.

64 (7) "Vehicle operator" means an individual who owns or is employed by a contract
65 railroad employee motor carrier and who operates a motor vehicle to transport railroad
66 employees for a contract railroad employee motor carrier.

67 Section 3. Section **72-9-803** is enacted to read:

68 **72-9-803. Information lettered on vehicle.**

69 (1) A contract railroad employee motor carrier shall display the name of the owner and
70 the words "contract railroad employee motor carrier" on both sides of any vehicle used to
71 transport railroad employees.

72 (2) The contract railroad employee motor carrier shall ensure that the information
73 described in Subsection (1) is free from obstruction and legible from a distance of at least 50
74 feet.

75 (3) A contract railroad employee motor carrier shall register as a contract railroad
76 employee motor carrier with the department.

77 (4) In addition to the information required under Subsection (1), the department may
78 require an identification number assigned by the department to be displayed in accordance with
79 Subsection (1).

80 Section 4. Section **72-9-804** is enacted to read:

81 **72-9-804. Department duties.**

82 (1) The department shall administer and, in cooperation with the Utah Highway Patrol
83 Division, Department of Public Safety, as specified under Section [53-8-105](#), enforce this part.

84 (2) The department shall register a contract railroad employee motor carrier as
85 described in Section [72-9-803](#).

86 (3) The department shall conduct compliance audits and inspections as needed to
87 enforce this part.

88 (4) A contract railroad employee motor carrier shall submit its vehicles and equipment
89 for inspection and examination and shall submit its books, log books, reports, records, and
90 documents for inspection and copying in accordance with this part.

91 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
92 department shall make rules to implement and manage this part.

93 Section 5. Section **72-9-805** is enacted to read:

94 **72-9-805. Vehicle operator qualifications.**

95 (1) A contract railroad employee motor carrier shall ensure that every vehicle operator
96 who drives for the contract railroad employee motor carrier has a valid driver license.

97 (2) A contract railroad employee motor carrier shall:

98 (a) ensure that every vehicle operator for the contract railroad employee motor carrier
99 is physically qualified to operated a vehicle as if the vehicle operator is operating a commercial
100 motor vehicle, in accordance with 49 C.F.R. Part 391.41;

101 (b) implement a mandatory alcohol and controlled substance testing program that
102 consists of preemployment, postaccident, random, and reasonable suspicion testing, conducted
103 by a federally certified or licensed physician or clinic;

104 (c) preserve and maintain records of examinations, tests, log books, hours of service,
105 and vehicle inspections at the contract railroad employee motor carrier's registered place of
106 business in the state; and

107 (d) implement a policy that provides for annual training and certification of every
108 vehicle operator for the contract railroad employee motor carrier in:

109 (i) safe operation of a vehicle transporting railroad employees;

110 (ii) relevant laws and rules of the road;

111 (iii) handling emergencies;

112 (iv) proper use of seat belts; and

113 (v) vehicle inspections and inspection record keeping.

114 (3) A contract railroad employee motor carrier may not permit or require a vehicle
115 operator who drives for the contract railroad employee motor carrier to operate a motor vehicle
116 if the vehicle operator has committed two or more serious traffic violations within the previous
117 three years.

118 Section 6. Section **72-9-806** is enacted to read:

119 72-9-806. Requirements for motor vehicles.

120 (1) A contract railroad employee motor carrier shall maintain, or require every vehicle
121 operator who drives for the contract railroad employee motor carrier to maintain, current motor
122 vehicle registration in accordance with Title 41, Chapter 1a, Motor Vehicle Act.

123 (2) (a) A contract railroad employee motor carrier shall conduct, or require every
124 vehicle operator who drives for the contract railroad employee motor carrier to conduct, a
125 vehicle inspection on each vehicle at the end of each working day.

126 (b) A contract railroad employee motor carrier shall prepare or require every vehicle
127 operator who drives for the contract railroad employee motor carrier to prepare a written
128 vehicle inspection report if the vehicle operator discovers a defect or deficiency with the
129 vehicle.

130 (c) A vehicle inspection report shall list the condition of the vehicle and shall specify
131 any repairs needed.

132 (d) Prior to operating a motor vehicle to transport a railroad employee, a vehicle
133 operator shall repair any items listed on the vehicle inspection report that would likely affect
134 the safe operation of the motor vehicle.

135 (e) A vehicle inspection shall ensure that each motor vehicle is maintained in a safe
136 manner, including the following parts and equipment:

137 (i) service and parking brakes;

138 (ii) lighting devices and reflectors;

139 (iii) exhaust system;

140 (iv) rear vision mirrors;

141 (v) steering;

142 (vi) tires, wheels, and rims;

143 (vii) horn;

144 (viii) windshield and windshield wipers;

145 (ix) emergency and first-aid equipment; and

146 (x) heating equipment capable of maintaining a reasonable temperature in passenger
147 areas.

148 (f) A contract railroad employee motor carrier shall retain the original copy of each
149 vehicle inspection report and the certification of repairs for at least six months after the day on

150 which the report is prepared.

151 Section 7. Section **72-9-807** is enacted to read:

152 **72-9-807. Insurance.**

153 A contract railroad employee motor carrier shall maintain, or require every vehicle
154 operator to maintain:

155 (1) motor vehicle liability coverage in a minimum amount of \$2,000,000; and

156 (2) uninsured and underinsured motor vehicle coverage in a minimum amount of
157 \$1,000,000.

158 Section 8. Section **72-9-808** is enacted to read:

159 **72-9-808. Hours of service.**

160 (1) Except as provided in Subsection (2), a vehicle operator may not drive:

161 (a) more than 10 hours following eight consecutive hours off duty; or

162 (b) if the total number of hours of on-duty time exceeds 70 hours in a period of eight
163 consecutive days.

164 (2) In the event of an emergency or unforeseeable delay, a vehicle operator may drive
165 for up to two hours above the hours described in Subsection (1) to complete an assignment or
166 to deliver passengers to a safe location.

167 (3) (a) Each vehicle operator shall maintain and keep current a daily log book detailing
168 the hours worked.

169 (b) Each vehicle operator shall keep the log book in the vehicle operator's possession at
170 all times when on duty and shall include the daily logs for the past 30 working days.

171 (c) The log book shall be made available for inspection upon the request of the
172 department, a law enforcement officer, or a passenger.

173 (4) A contract railroad employee motor carrier shall maintain and retain, for a period of
174 six months, accurate time records showing:

175 (a) the time the vehicle operator reports for duty each day;

176 (b) the total number of hours the vehicle operator is on duty each day; and

177 (c) the time the vehicle operator is released from duty each day.

178 Section 9. Section **72-9-809** is enacted to read:

179 **72-9-809. Penalties.**

180 A violation of any provision under this part by a contract railroad employee motor

181 carrier or a vehicle operator or a failure to perform any act required under this part by a contract
182 railroad employee motor carrier or a vehicle operator is a class C misdemeanor. Every
183 violation of a provision of the Utah Constitution or statute is a separate and distinct offense.

184 Section 10. Section **72-9-810** is enacted to read:

185 **72-9-810. Civil penalties.**

186 (1) In addition to any other penalties, a contract railroad employee motor carrier that
187 fails or neglects to comply with any provision of the Utah Constitution, statute, or any rule or
188 order of the department is subject to a civil penalty of not more than \$1,000 for each offense.

189 (2) (a) Every violation of a provision of the Utah Constitution, statute, or any rule or
190 order of the department is a separate and distinct offense.

191 (b) Each day's continuance of a violation is a separate and distinct offense.

192 (3) (a) The department may reduce the civil penalty in a compromise with the person
193 alleged to have committed a civil penalty under this section.

194 (b) In determining the amount of the penalty or the amount agreed upon in a
195 compromise, the department shall consider the:

196 (i) gravity of the violation; and

197 (ii) good faith of the person charged in attempting to achieve compliance after
198 notification of the violation.

199 (c) The amount of the penalty when finally determined or the amount agreed upon in a
200 compromise may be deducted from any sums owed by the state to the person charged or may
201 be recovered in a civil action in the courts of the state.

202 (4) In construing and enforcing the provisions of this part relating to penalties, the act,
203 omission, or failure of an officer, agent, or employee of a contract railroad employee motor
204 carrier, acting within the scope of the person's official duties or employment, is considered to
205 be the act, omission, or failure of the contract railroad employee motor carrier.