

1                   **EMERGENCY VEHICLE OPERATOR DUTY OF**  
2                   **CARE AMENDMENTS**

3                   2018 GENERAL SESSION

4                   STATE OF UTAH

5                   **Chief Sponsor: Jacob L. Anderegg**

6                   House Sponsor: A. Cory Maloy

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8                   **LONG TITLE**

9                   **General Description:**

10                   This bill requires agencies to have written policies to govern the protocol for engaging  
11                   and terminating authorized emergency vehicle pursuit and modifies the duty of care if  
12                   the operator acts outside the written policy.

13                   **Highlighted Provisions:**

14                   This bill:

15                   ▶ requires agencies operating authorized emergency vehicles to have a written policy  
16                   to govern the protocol of the operator of the authorized emergency vehicle to  
17                   engage, conduct, and terminate vehicle pursuit;

18                   ▶ provides that the operator of an authorized emergency vehicle owes a duty of care to  
19                   the occupant of a vehicle under pursuit if the operator of the authorized emergency  
20                   vehicle acts outside the written protocol for vehicle pursuit;

21                   ▶ requires the head of a law enforcement agency involved in a pursuit resulting in  
22                   injury or property damage to evaluate compliance with policies and document and  
23                   remedy any violations of the policies; and

24                   ▶ makes technical changes.

25                   **Money Appropriated in this Bill:**

26                   None

27                   **Other Special Clauses:**

28                   None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **41-6a-212**, as last amended by Laws of Utah 2014, Chapter 288



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

34 Section 1. Section **41-6a-212** is amended to read:

35 **41-6a-212. Emergency vehicles -- Policy regarding vehicle pursuits --**

36 **Applicability of traffic law to highway work vehicles -- Exemptions.**

37 (1) As used in this section, "marked authorized emergency vehicle" means an  
38 authorized emergency vehicle that:

39 (a) has emergency lights that comply with Section **41-6a-1601** affixed to the top of the  
40 vehicle; or

41 (b) is displaying an identification mark designating the vehicle as the property of an  
42 entity that is authorized to operate emergency vehicles in a conspicuous place on both sides of  
43 the vehicle.

44 (2) Subject to Subsections (3) through (6), the operator of an authorized emergency  
45 vehicle may exercise the privileges granted under this section when:

46 (a) responding to an emergency call;

47 (b) in the pursuit of an actual or suspected violator of the law; or

48 (c) responding to but not upon returning from a fire alarm.

49 (3) The operator of an authorized emergency vehicle may:

50 (a) park or stand, irrespective of the provisions of this chapter;

51 (b) proceed past a red or stop signal or stop sign, but only after slowing down as may  
52 be necessary for safe operation;

53 (c) exceed the maximum speed limits, unless prohibited by a local highway authority  
54 under Section **41-6a-208**; or

55 (d) disregard regulations governing direction of movement or turning in specified

56 directions.

57 (4) (a) Except as provided in Subsection (4)(b), privileges granted under this section to  
58 the operator of an authorized emergency vehicle, who is not involved in a vehicle pursuit,  
59 apply only when:

60 (i) the operator of the vehicle sounds an audible signal under Section 41-6a-1625; or

61 (ii) uses a visual signal with emergency lights in accordance with rules made under  
62 Section 41-6a-1601, which is visible from in front of the vehicle.

63 (b) An operator of an authorized emergency vehicle may exceed the maximum speed  
64 limit when engaged in normal patrolling activities with the purpose of identifying and  
65 apprehending violators.

66 (5) (a) Privileges granted under this section to the operator of an authorized emergency  
67 vehicle involved in any vehicle pursuit apply only when:

68 ~~[(a)]~~ (i) the operator of the vehicle:

69 ~~[(i)]~~ (A) sounds an audible signal under Section 41-6a-1625; and

70 ~~[(ii)]~~ (B) uses a visual signal with emergency lights in accordance with rules made  
71 under Section 41-6a-1601, which is visible from in front of the vehicle;

72 ~~[(b) the public agency employing the operator of the vehicle has, in effect, a written  
73 policy which describes the manner and circumstances in which any vehicle pursuit should be  
74 conducted and terminated;]~~

75 ~~[(e)]~~ (ii) the operator of the authorized emergency vehicle has been trained in  
76 accordance with the written policy described in Subsection (5)(b); and

77 ~~[(d)]~~ (iii) the pursuit policy of the public agency described in Subsection (5)(b) is in  
78 conformance with standards established under Subsection (6).

79 (b) (i) Each public agency that owns, operates, or causes to be operated an authorized  
80 emergency vehicle shall have a written policy that describes the manner and circumstances in  
81 which an operator of an authorized emergency vehicle shall engage, conduct, and terminate  
82 vehicle pursuit.

83           (ii) The policy described in Subsection (5)(b)(i) shall conform with the minimum  
84 standards set forth pursuant to Subsection (6).

85           (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
86 Department of Public Safety shall make rules providing minimum standards for all emergency  
87 pursuit policies that are adopted by public agencies authorized to operate emergency pursuit  
88 vehicles.

89           (7) (a) Except as provided in Subsection (7)(b), the privileges granted under this  
90 section do not relieve the operator of an authorized emergency vehicle of the duty to act as a  
91 reasonably prudent emergency vehicle operator under the circumstances.

92           (b) The operator of a marked authorized emergency vehicle owes no duty of care under  
93 this Subsection (7) to a person who is:

94           (i) (A) a suspect in the commission of a crime; and

95           (B) evading, fleeing, or otherwise attempting to elude the operator of a marked  
96 authorized emergency vehicle; or

97           (ii) in a motor vehicle with the suspect described in Subsection (7)(b)(i), unless it is  
98 proven by a preponderance of the evidence that:

99           (A) the person's presence in the vehicle was involuntary; and

100           (B) the person's participation in evading, fleeing, or attempting to elude was  
101 involuntary.

102           (c) (i) Notwithstanding Subsection (7)(b), an operator of a marked authorized  
103 emergency vehicle may be held liable for a fleeing suspect's injuries if the operator of a marked  
104 authorized emergency vehicle had actual intent to cause harm to the fleeing suspect in an act  
105 that was unrelated to the legitimate object of the arrest.

106           (ii) "Actual intent" under this Subsection (7)(c) means a malicious motive to cause  
107 injury, not merely an intent to do the act resulting in the injury.

108           (d) If an operator of a marked authorized emergency vehicle complies with the  
109 requirements described in Subsections (5) and (6) while operating the marked authorized

110 emergency vehicle, the operator shall be deemed to have met the operator's duty to act as a  
111 reasonably prudent emergency vehicle operator under the circumstances.

112 (8) (a) For each instance involving an authorized emergency vehicle in pursuit that  
113 results in injury or property damage, the head of the law enforcement agency involved in the  
114 pursuit shall evaluate the situation to determine whether the operator of the authorized  
115 emergency vehicle complied with the agency's policies.

116 (b) After the evaluation described in Subsection (8)(a), the head of the law enforcement  
117 agency shall document and appropriately remedy through agency administrative action any  
118 violations of the agency's policies.

119 (c) Any document produced under Subsection (8)(b) shall be subject to Title 63G,  
120 Chapter 2, Government Records Access and Management Act.

121 ~~[(8)]~~ (9) Except for Sections 41-6a-210, 41-6a-502, and 41-6a-528, this chapter does  
122 not apply to persons, motor vehicles, and other equipment while actually engaged in work on  
123 the surface of a highway.