

AUTOMOBILE INSURANCE AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mark B. Madsen

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to motor vehicle insurance.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to evidence of a motor vehicle owner's or operator's security;
- ▶ permits a motor vehicle owner to bring a cause of action against the public entity that employs a law enforcement officer; and
- ▶ amends post-accident security requirements.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-12a-303.2, as last amended by Laws of Utah 2013, Chapters 91 and 138

41-12a-501, as last amended by Laws of Utah 2005, Chapter 2

63G-7-301, as last amended by Laws of Utah 2014, Chapter 145

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



28 Section 1. Section 41-12a-303.2 is amended to read:

29 **41-12a-303.2. Evidence of owner's or operator's security to be carried when**
30 **operating motor vehicle -- Defense -- Penalties.**

31 (1) As used in this section:

32 (a) "Division" means the Motor Vehicle Division of the State Tax Commission.

33 (b) "Registration materials" means the evidences of motor vehicle registration,
34 including all registration cards, license plates, temporary permits, and nonresident temporary
35 permits.

36 (2) (a) (i) A person operating a motor vehicle shall:

37 (A) have in the person's immediate possession evidence of owner's or operator's
38 security for the motor vehicle the person is operating; and

39 (B) display it upon demand of a peace officer.

40 (ii) A person is exempt from the requirements of Subsection (2)(a)(i) if the person is
41 operating:

42 (A) a government-owned or leased motor vehicle; or

43 (B) an employer-owned or leased motor vehicle and is driving it with the employer's
44 permission.

45 (b) Evidence of owner's or operator's security includes any one of the following:

46 (i) a copy of the operator's valid:

47 (A) insurance policy;

48 (B) insurance policy declaration page;

49 (C) binder notice;

50 (D) renewal notice; or

51 (E) card issued by an insurance company as evidence of insurance;

52 (ii) a certificate of insurance issued under Section 41-12a-402;

53 (iii) a certified copy of a surety bond issued under Section 41-12a-405;

54 (iv) a certificate of the state treasurer issued under Section 41-12a-406;

55 (v) a certificate of self-funded coverage issued under Section 41-12a-407; ~~or~~

56 (vi) information that the vehicle or driver is insured from the Uninsured Motorist
57 Identification Database Program created under Title 41, Chapter 12a, Part 8~~[-];~~ or

58 (vii) (A) information that the vehicle is operated with a temporary permit issued and

59 displayed as described in Section [41-1a-211](#) or [41-3-302](#):

60 (B) evidence that the vehicle was purchased within the previous 30 days; and

61 (C) evidence of an existing insurance policy issued to the owner of the vehicle.

62 (c) A card issued by an insurance company as evidence of owner's or operator's
63 security under Subsection (2)(b)(i)(E) on or after July 1, 2014, may not display the owner's or
64 operator's address on the card.

65 (d) (i) A person may provide to a peace officer evidence of owner's or operator's
66 security described in this Subsection (2) in:

67 (A) a hard copy format; or

68 (B) an electronic format using a mobile electronic device.

69 (ii) If a person provides evidence of owner's or operator's security in an electronic
70 format using a mobile electronic device under this Subsection (2)(d), the peace officer viewing
71 the owner's or operator's security on the mobile electronic device may not view any other
72 content on the mobile electronic device.

73 (iii) Notwithstanding any other provision under this section, a peace officer is not
74 subject to civil liability or criminal penalties under this section if the peace officer inadvertently
75 views content other than the evidence of owner's or operator's security on the mobile electronic
76 device.

77 (e) (i) Evidence of owner's or operator's security from the Uninsured Motorist
78 Identification Database Program described under Subsection (2)(b)(vi) supercedes any
79 evidence of owner's or operator's security described under Subsection (2)(b)(i)(D) or (E).

80 (ii) A peace officer may not cite or arrest a person for a violation of Subsection (2)(a) if
81 the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a,
82 Part 8, information indicates that the vehicle or driver is insured.

83 (3) It is an affirmative defense to a charge under this section that the person had
84 owner's or operator's security in effect for the vehicle the person was operating at the time of
85 the person's citation or arrest.

86 (4) (a) Evidence of owner's or operator's security as defined under Subsection (2)(b) or
87 a written statement from an insurance producer or company verifying that the person had the
88 required motor vehicle insurance coverage on the date specified is considered proof of owner's
89 or operator's security for purposes of Subsection (3) and Section [41-12a-804](#).

90 (b) The court considering a citation issued under this section shall allow the evidence
91 or a written statement under Subsection (4)(a) and a copy of the citation to be faxed or mailed
92 to the clerk of the court to satisfy Subsection (3).

93 (c) The notice under Section 41-12a-804 shall specify that the written statement under
94 Subsection (4)(a) and a copy of the notice shall be faxed or mailed to the designated agent to
95 satisfy the proof of owner's or operator's security required under Section 41-12a-804.

96 (5) A violation of this section is a class B misdemeanor, and the fine shall be not less
97 than:

98 (a) \$400 for a first offense; and

99 (b) \$1,000 for a second and subsequent offense within three years of a previous
100 conviction or bail forfeiture.

101 (6) Upon receiving notification from a court of a conviction for a violation of this
102 section, the department:

103 (a) shall suspend the person's driver license; and

104 (b) may not renew the person's driver license or issue a driver license to the person
105 until the person gives the department proof of owner's or operator's security.

106 (i) This proof of owner's or operator's security shall be given by any of the ways
107 required under Section 41-12a-401.

108 (ii) This proof of owner's or operator's security shall be maintained with the department
109 for a three-year period.

110 (iii) An insurer that provides a certificate of insurance as provided under Section
111 41-12a-402 or 41-12a-403 may not terminate the insurance policy unless notice of termination
112 is filed with the department no later than 10 days after termination as required under Section
113 41-12a-404.

114 (iv) If a person who has canceled the certificate of insurance applies for a license
115 within three years from the date proof of owner's or operator's security was originally required,
116 the department shall refuse the application unless the person reestablishes proof of owner's or
117 operator's security and maintains the proof for the remainder of the three-year period.

118 (7) A person may bring a civil cause of action in a court of competent jurisdiction
119 against the public entity that employs a law enforcement officer for the law enforcement
120 officer's failure to comply with a provision of this section.

121 Section 2. Section **41-12a-501** is amended to read:

122 **41-12a-501. Post-accident security.**

123 (1) (a) Unless excepted under Subsection (2), the operator of a motor vehicle involved
124 in an accident in the state and any owner who has not previously satisfied the requirement of
125 security under Section **41-12a-301** shall file post-accident security with the department for the
126 benefit of persons obtaining judgments against the operator on account of bodily injury, death,
127 or property damage caused by the accident.

128 (b) The security shall be in an amount determined by the department to be sufficient to
129 satisfy judgments arising from bodily injury, death, or property damage resulting from the
130 accident that may be recovered against the operator, but may not exceed the minimum single
131 limit under Subsection **31A-22-304(2)**.

132 (c) The department shall determine the amount of post-accident security on the basis of
133 reports and other evidence submitted to the department by interested parties, including officials
134 investigating the accident.

135 (d) In setting the amount of post-accident security, the department may not take into
136 account alleged damages resulting from pain and suffering.

137 (e) Persons who fail to file required post-accident security are subject to the penalties
138 under Subsection (3).

139 (2) The operator is exempted from the post-accident requirement under Subsection (1)
140 if any of the following conditions are satisfied:

141 (a) No bodily injury, death, or damage to the property of one person in excess of the
142 damage limit specified under Section **41-6a-401** resulted from the accident.

143 (b) No injury, death, or property damage was suffered by any person other than the
144 owner or operator.

145 (c) The owner of the motor vehicle was in compliance with the owner's security
146 requirement under Section **41-12a-301** at the time of the accident and the operator had
147 permission from the owner to operate the motor vehicle.

148 (d) The operator was in compliance with the operator's security requirement under
149 Section **41-12a-301** at the time of the accident.

150 (e) The operator has filed satisfactory evidence with the department that the operator
151 has been released from liability, has been finally adjudicated not to be liable, or has executed a

152 duly acknowledged written agreement providing for the payment of an agreed amount in
153 installments with respect to all claims for injuries or damages resulting from the accident and is
154 not in default on that agreement.

155 (f) The motor vehicle involved in the accident was operated by a nonresident who had
156 an insurance policy or bond covering the accident, but not fully complying with the policy
157 provision requirements under Section 31A-22-302, if the policy or bond is sufficient to provide
158 full recovery for claimants and the policy or bond is issued by an insurer licensed in the state.

159 (g) The operator at the time of the accident was operating a motor vehicle owned or
160 leased by the operator's employer and driven with the employer's permission.

161 (h) Evidence as to the extent of injuries or property damage caused by the accident has
162 not been submitted by or on behalf of any person affected by the accident within [~~six months~~]
163 two years following the date of the accident.

164 (i) The motor vehicle was legally parked at the time of the accident.

165 (j) The motor vehicle was an emergency vehicle acting in the line of duty at the time of
166 the accident.

167 (k) The motor vehicle involved in the accident is owned by the United States, this state,
168 or any political subdivision of this state, if the operator was using the vehicle with the
169 permission of the owner.

170 (l) The motor vehicle was legally stopped at a stop sign, traffic signal, or at the
171 direction of a peace officer at the time of the accident.

172 (3) (a) If an operator who is required to file post-accident security under Subsection (1)
173 does not do so within 10 days after receiving notice of the requirement of security, the
174 department shall suspend the driver's license of the operator and all registrations of the owner,
175 if he is a resident of the state.

176 (b) If the operator is not a resident of Utah, the department shall suspend the privilege
177 of operating a motor vehicle within the state and of using, in the state, any owned motor
178 vehicle.

179 (c) Notice of these suspensions shall be sent to the owner or operator no less than 15
180 days prior to the effective date of the suspension.

181 Section 3. Section 63G-7-301 is amended to read:

182 **63G-7-301. Waivers of immunity -- Exceptions.**

183 (1) (a) Immunity from suit of each governmental entity is waived as to any contractual
184 obligation.

185 (b) Actions arising out of contractual rights or obligations are not subject to the
186 requirements of Sections 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

187 (c) The Division of Water Resources is not liable for failure to deliver water from a
188 reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development
189 Act, if the failure to deliver the contractual amount of water is due to drought, other natural
190 condition, or safety condition that causes a deficiency in the amount of available water.

191 (2) Immunity from suit of each governmental entity is waived:

192 (a) as to any action brought to recover, obtain possession of, or quiet title to real or
193 personal property;

194 (b) as to any action brought to foreclose mortgages or other liens on real or personal
195 property, to determine any adverse claim on real or personal property, or to obtain an
196 adjudication about any mortgage or other lien that the governmental entity may have or claim
197 on real or personal property;

198 (c) as to any action based on the negligent destruction, damage, or loss of goods,
199 merchandise, or other property while it is in the possession of any governmental entity or
200 employee, if the property was seized for the purpose of forfeiture under any provision of state
201 law;

202 (d) subject to Subsection 63G-7-302(1), as to any action brought under the authority of
203 Article I, Section 22, of the Utah Constitution, for the recovery of compensation from the
204 governmental entity when the governmental entity has taken or damaged private property for
205 public uses without just compensation;

206 (e) subject to Subsection 63G-7-302(2), as to any action brought to recover attorney
207 fees under Sections 63G-2-405 and 63G-2-802;

208 (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees
209 Act; ~~or~~

210 (g) as to any action brought to obtain relief from a land use regulation that imposes a
211 substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious
212 Land Use Act~~[-]~~; or

213 (h) as to any action brought against the public entity that employs a law enforcement

214 officer for failing to comply with a provision of Section [41-12a-303.2](#).

215 (3) (a) Except as provided in Subsection (3)(b), immunity from suit of each
216 governmental entity is waived as to any injury caused by:

217 (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley,
218 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

219 (ii) any defective or dangerous condition of a public building, structure, dam, reservoir,
220 or other public improvement.

221 (b) Immunity from suit of each governmental entity is not waived if the injury arises
222 out of, in connection with, or results from:

223 (i) a latent dangerous or latent defective condition of any highway, road, street, alley,
224 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

225 (ii) a latent dangerous or latent defective condition of any public building, structure,
226 dam, reservoir, or other public improvement.

227 (4) Immunity from suit of each governmental entity is waived as to any injury
228 proximately caused by a negligent act or omission of an employee committed within the scope
229 of employment.

230 (5) Immunity from suit of each governmental entity is not waived under Subsections
231 (3) and (4) if the injury arises out of, in connection with, or results from:

232 (a) the exercise or performance, or the failure to exercise or perform, a discretionary
233 function, whether or not the discretion is abused;

234 (b) assault, battery, false imprisonment, false arrest, malicious prosecution, intentional
235 trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of
236 mental anguish, or violation of civil rights;

237 (c) the issuance, denial, suspension, or revocation of, or by the failure or refusal to
238 issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar
239 authorization;

240 (d) a failure to make an inspection or by making an inadequate or negligent inspection;

241 (e) the institution or prosecution of any judicial or administrative proceeding, even if
242 malicious or without probable cause;

243 (f) a misrepresentation by an employee whether or not it is negligent or intentional;

244 (g) riots, unlawful assemblies, public demonstrations, mob violence, and civil

- 245 disturbances;
- 246 (h) the collection of and assessment of taxes;
- 247 (i) the activities of the Utah National Guard;
- 248 (j) the incarceration of any person in any state prison, county or city jail, or other place
249 of legal confinement;
- 250 (k) any natural condition on publicly owned or controlled lands;
- 251 (l) any condition existing in connection with an abandoned mine or mining operation;
- 252 (m) any activity authorized by the School and Institutional Trust Lands Administration
253 or the Division of Forestry, Fire, and State Lands;
- 254 (n) the operation or existence of a pedestrian or equestrian trail that is along a ditch,
255 canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river,
256 if:
- 257 (i) the trail is designated under a general plan adopted by a municipality under Section
258 [10-9a-401](#) or by a county under Section [17-27a-401](#);
- 259 (ii) the trail right-of-way or the right-of-way where the trail is located is open to public
260 use as evidenced by a written agreement between the owner or operator of the trail
261 right-of-way, or of the right-of-way where the trail is located, and the municipality or county
262 where the trail is located; and
- 263 (iii) the written agreement:
- 264 (A) contains a plan for operation and maintenance of the trail; and
- 265 (B) provides that an owner or operator of the trail right-of-way or of the right-of-way
266 where the trail is located has, at minimum, the same level of immunity from suit as the
267 governmental entity in connection with or resulting from the use of the trail.
- 268 (o) research or implementation of cloud management or seeding for the clearing of fog;
- 269 (p) the management of flood waters, earthquakes, or natural disasters;
- 270 (q) the construction, repair, or operation of flood or storm systems;
- 271 (r) the operation of an emergency vehicle, while being driven in accordance with the
272 requirements of Section [41-6a-212](#);
- 273 (s) the activities of:
- 274 (i) providing emergency medical assistance;
- 275 (ii) fighting fire;

- 276 (iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;
- 277 (iv) emergency evacuations;
- 278 (v) transporting or removing injured persons to a place where emergency medical
- 279 assistance can be rendered or where the person can be transported by a licensed ambulance
- 280 service; or
- 281 (vi) intervening during dam emergencies;
- 282 (t) the exercise or performance, or the failure to exercise or perform, any function
- 283 pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;
- 284 (u) unauthorized access to government records, data, or electronic information systems
- 285 by any person or entity; or
- 286 (v) injury related to the activity of wildlife, as defined in Section [23-13-2](#), that arises
- 287 during the use of a public or private road.

Legislative Review Note
as of 3-2-15 11:55 AM

Office of Legislative Research and General Counsel