LEGISLATIVE GENERAL COUNSEL
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CIVIL ACTIONS INVOLVING LAW ENFORCEMENT OFFICERS OR EMERGENCY VEHICLE OPERATORS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mark B. Madsen

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to civil actions involving law enforcement officers or emergency vehicle operators.

Highlighted Provisions:

This bill:

- repeals the provision that provides that the operator of a marked authorized emergency vehicle owes no duty of care to a person who is a suspect in the commission of a crime in certain circumstances;
- amends the bond requirements for a person filing an action against a law enforcement officer acting within the scope of the officer's duties; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

78B-3-104, as enacted by Laws of Utah 2008, Chapter 3

S.B. 290

28

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

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

31 **41-6a-212. Emergency vehicles -- Policy regarding vehicle pursuits --**
32 **Applicability of traffic law to highway work vehicles -- Exemptions.**

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

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

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

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

42 (a) responding to an emergency call;

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

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

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

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

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

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

51 (d) disregard regulations governing direction of movement or turning in specified
52 directions.

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

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

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

59 (b) An operator of an authorized emergency vehicle may exceed the maximum speed
60 limit when engaged in normal patrolling activities with the purpose of identifying and
61 apprehending violators.
62 (5) Privileges granted under this section to the operator of an authorized emergency
63 vehicle involved in any vehicle pursuit apply only when:
64 (a) the operator of the vehicle:
65 (i) sounds an audible signal under Section 41-6a-1625; and
66 (ii) uses a visual signal with emergency lights in accordance with rules made under
67 Section 41-6a-1601, which is visible from in front of the vehicle;
68 (b) the public agency employing the operator of the vehicle has, in effect, a written
69 policy which describes the manner and circumstances in which any vehicle pursuit should be
70 conducted and terminated;
71 (c) the operator of the vehicle has been trained in accordance with the written policy
72 described in Subsection (5)(b); and
73 (d) the pursuit policy of the public agency is in conformance with standards established
74 under Subsection (6) .
75 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
76 Department of Public Safety shall make rules providing minimum standards for all emergency
77 pursuit policies that are adopted by public agencies authorized to operate emergency pursuit
78 vehicles.
79 (7) (a) [~~Except as provided in Subsection (7)(b), the~~] The privileges granted under this
80 section do not relieve the operator of an authorized emergency vehicle of the duty to act as a
81 reasonably prudent emergency vehicle operator under the circumstances.
82 [~~(b) The operator of a marked authorized emergency vehicle owes no duty of care~~
83 ~~under this Subsection (7) to a person who is:~~]
84 [~~(i) (A) a suspect in the commission of a crime; and~~]
85 [~~(B) evading, fleeing, or otherwise attempting to elude the operator of a marked~~
86 ~~authorized emergency vehicle; or~~]
87 [~~(ii) in a motor vehicle with the suspect described in Subsection (7)(b)(i), unless it is~~
88 ~~proven by a preponderance of the evidence that:~~]
89 [~~(A) the person's presence in the vehicle was involuntary; and~~]

90 [~~(B) the person's participation in evading, fleeing, or attempting to elude was~~
91 ~~involuntary.~~]
92 [~~(c) (i) Notwithstanding Subsection (7)(b), an operator of a marked authorized~~
93 ~~emergency vehicle may be held liable for a fleeing suspect's injuries if the operator of a marked~~
94 ~~authorized emergency vehicle had actual intent to cause harm to the fleeing suspect in an act~~
95 ~~that was unrelated to the legitimate object of the arrest.~~]
96 [~~(ii) "Actual intent" under this Subsection (7)(c) means a malicious motive to cause~~
97 ~~injury, not merely an intent to do the act resulting in the injury.~~]
98 [~~(d)~~] (b) If an operator of a marked authorized emergency vehicle complies with the
99 requirements described in Subsections (5) and (6) while operating the marked authorized
100 emergency vehicle, the operator shall be deemed to have met the operator's duty to act as a
101 reasonably prudent emergency vehicle operator under the circumstances.
102 (8) Except for Sections 41-6a-210, 41-6a-502, and 41-6a-528, this chapter does not
103 apply to persons, motor vehicles, and other equipment while actually engaged in work on the
104 surface of a highway.
105 Section 2. Section **78B-3-104** is amended to read:
106 **78B-3-104. Actions against officers -- Bond required -- Costs and attorney fees.**
107 (1) A person [~~may not file~~] filing an action against a law enforcement officer acting
108 within the scope of the officer's official duties [~~unless the person has posted~~] shall post a bond
109 in an amount determined by the court[~~.~~] within five working days after the latter of:
110 (a) receipt of the law enforcement officer's answer; or
111 (b) receipt of the court order determining the amount of the bond required under this
112 section.
113 (2) The bond shall cover all estimated costs and attorney fees the officer may be
114 expected to personally incur in defending the action[~~;~~] in the event the officer prevails,
115 excluding costs and attorney fees that would be paid by the law enforcement officer's employer
116 or an employer's insurance policy.
117 (3) The prevailing party shall recover from the losing party all costs and attorney fees
118 allowed by the court.
119 (4) In the event the plaintiff prevails, the official bond of the officer shall be liable for
120 the plaintiff's costs and attorney fees.

Legislative Review Note
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Office of Legislative Research and General Counsel