

**ENFORCEMENT AND PENALTIES OF
UNINSURED MOTOR VEHICLE VIOLATIONS**

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: David H. Steele

AN ACT RELATING TO MOTOR VEHICLES; AMENDING UNINSURED MOTOR VEHICLE PROVISIONS; PROVIDING FOR A REGISTRATION REINSTATEMENT FEE; AMENDING PENALTY PROVISIONS FOR NOT HAVING INSURANCE; AMENDING THE PURPOSES OF THE UNINSURED MOTORIST IDENTIFICATION DATABASE PROGRAM; PROVIDING FOR CERTAIN AUDITS; PROVIDING FOR TRACKING OF VEHICLES IDENTIFIED AS UNINSURED; PROVIDING THE INFORMATION TO LAW ENFORCEMENT; AND AMENDING CERTAIN PROVISIONS FOR ENFORCEMENT OF UNINSURED MOTOR VEHICLES VIOLATIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

41-1a-110, as last amended by Chapter 170, Laws of Utah 1996

41-12a-302, as last amended by Chapter 189, Laws of Utah 1993

41-12a-303.2, as last amended by Chapters 33 and 200, Laws of Utah 1996

41-12a-803, as last amended by Chapters 10 and 269, Laws of Utah 1997

41-12a-804, as last amended by Chapter 269, Laws of Utah 1997

41-12a-805, as last amended by Chapters 10 and 269, Laws of Utah 1997

ENACTS:

41-1a-1220, Utah Code Annotated 1953

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

Section 1. Section **41-1a-110** is amended to read:

41-1a-110. Authority of division to suspend or revoke registration, certificate of title, license plate, or permit.

(1) Except as provided in Subsections (2) and (3) the division may suspend or revoke a registration, certificate of title, license plate, or permit if:

(a) the division is satisfied that a registration, certificate of title, license plate, or permit was fraudulently procured or erroneously issued;

(b) the division determines that a registered vehicle is mechanically unfit or unsafe to be operated or moved upon the highways;

(c) a registered vehicle has been dismantled;

(d) the division determines that the required fee has not been paid and the fee is not paid upon reasonable notice and demand;

(e) a registration decal, license plate, or permit is knowingly displayed upon a vehicle other than the one for which issued;

(f) the division receives notification by the Department of Public Safety that a person:

(i) has been convicted of operating a registered motor vehicle that does not have owner's or operator's security in effect as required under Section 41-12a-301; or

(ii) is under an administrative action taken by the Department of Public Safety for operating a registered motor vehicle without owner's or operator's security in effect as required under Section 41-12a-301;

~~[(f)]~~ (g) the division determines that the owner has committed any offense under this chapter involving the registration, certificate of title, registration card, license plate, registration decal, or permit; or

~~[(g)]~~ (h) the division receives notification by the Department of Transportation that the owner has committed any offence under Title 27, Chapter 17, Motor Carrier Safety Act.

(2) The division may not suspend or revoke the registration of a vessel or outboard motor unless authorized under Section 73-18-7.3.

(3) The division may not suspend or revoke the registration of an off-highway vehicle unless authorized under Section 41-22-17.

(4) The division shall charge a registration reinstatement fee under Section 41-1a-1220, if the registration is revoked under Subsection (1)(f).

Section 2. Section **41-1a-1220** is enacted to read:

41-1a-1220. Registration reinstatement fee.

(1) At the time application is made for reinstatement or renewal of registration of a motor vehicle after a revocation of the registration under Subsection 41-1a-110(1)(f), the applicant shall pay a registration reinstatement fee of \$50.

(2) The fee imposed under Subsection (1) is in addition to any other fee imposed under this chapter.

Section 3. Section **41-12a-302** is amended to read:

41-12a-302. Operating motor vehicle without owner's or operator's security -- Penalty.

(1) Any owner of a motor vehicle on which owner's or operator's security is required under Section 41-12a-301, who operates his vehicle or permits it to be operated on a highway in this state without owner's security being in effect is guilty of a class B misdemeanor, and the fine shall be not less than:

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

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

(2) [Any] (a) Except as provided under Subsection (2)(b), any other person who operates a motor vehicle upon a highway in Utah with the knowledge that the owner does not have owner's security in effect for the motor vehicle is also guilty of a class B misdemeanor[~~-, unless that~~], and the fine shall be not less than:

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

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

(b) A person that has in effect owner's security on a Utah-registered motor vehicle or its equivalent that covers the operation, by [him] the person, of the motor vehicle in question is exempt from this Subsection (2).

Section 4. Section **41-12a-303.2** is amended to read:

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

(1) As used in this section:

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

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

(2) (a) (i) Except as provided in Subsection (2)(a) (ii), a person operating a motor vehicle shall:

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

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

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

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

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

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

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

(A) insurance policy;

(B) binder notice;

(C) renewal notice; or

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

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

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

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

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

(vi) information that the vehicle or driver is insured from the Uninsured Motorist

Identification Database Program created under Title 41, Chapter 12a, Part 8.

(c) Evidence of owner's or operator's security from the Uninsured Motorist Identification Database Program described under Subsection (2)(b)(vi) supercedes any evidence of owner's or operator's security described under Subsections (2)(b)(i)(C) or (D).

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

(4) (a) Evidence of owner's or operator's security as defined under Subsection (2)(b) or a letter from an insurance agent or company verifying that the person had the required motor vehicle insurance coverage on the date specified is considered proof of owner's or operator's security for purposes of Subsection (3) and Section 41-12a-804.

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

(c) The notice under Section 41-12a-804 shall specify that the letter under Subsection (4)(a) and a copy of the notice ~~[may]~~ shall be faxed or mailed to the designated agent to satisfy the proof of owner's or operator's security required under Section 41-12a-804.

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

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

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

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

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

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

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

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

(iii) An insurer that provides a certificate of insurance as provided under Section 41-12a-402 or 41-12a-403 may not terminate the insurance policy unless notice of termination is filed with the

department no later than ten days after termination as required under Section 41-12a-404.

(iv) (A) A person may terminate the insurance policy and cancel the certificate of insurance if the person surrenders the person's driver license to the department.

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

Section 5. Section **41-12a-803** is amended to read:

41-12a-803. Program creation -- Administration -- Selection of designated agent -- Duties -- Rulemaking -- Audits.

(1) There is created the Uninsured Motorist Identification Database Program to:

(a) establish an Uninsured Motorist Identification Database to verify compliance with motor vehicle owner's or operator's security requirements under Section 41-12a-301 and other provisions under this part;

(b) assist in reducing the number of uninsured motor vehicles on the highways of the state;
and

(c) assist in increasing compliance with motor vehicle registration and sales and use tax laws.

(2) The program shall be administered by the department with the assistance of the designated agent and the Motor Vehicle Division.

(3) (a) The department shall contract in accordance with Title 63, Chapter 56, Utah Procurement Code, with a third party to ~~[track compliance with the owner's or operator's security requirements under Section 41-12a-301 and other provisions under this part]~~ establish and maintain an Uninsured Motorist Identification Database for the purposes established under this part.

(b) The contract may not obligate the department to pay the third party more monies than are available in the account.

(4) (a) The third party under contract under this section is the department's designated agent, and shall develop and maintain a computer database from the information provided by:

- (i) insurers under Section 31A-22-315;
- (ii) the division under Subsection (6); and
- (iii) the Motor Vehicle Division under Section 41-1a-120.

(b) (i) The database shall be developed and maintained in accordance with guidelines established by the department so that state and local law enforcement agencies can efficiently access the records of the database, including reports useful for the implementation of the provisions of this part.

- (ii) The reports shall be in a form and contain information approved by the department.

(5) With information provided by the department and the Motor Vehicle Division, the designated agent shall, at least monthly:

(a) update the database with the motor vehicle insurance information provided by the insurers in accordance with Section 31A-22-315; and

- (b) compare all current motor vehicle registrations against the database.

(6) The division shall provide the designated agent with the name, date of birth, address, and driver license number of all persons on the driver license database.

(7) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the department shall make rules and develop procedures in cooperation with the Motor Vehicle Division to use the database for the purpose of administering and enforcing this part.

(8) (a) The designated agent shall archive computer data files at least semi-annually for auditing purposes.

(b) The internal audit unit of the tax commission provided under Section 59-1-206 shall audit the program at least annually. The audit shall include verification of:

- (i) billings made by the designated agent; and
- (ii) the accuracy of the designated agent's matching of vehicle registration with insurance data.

Section 6. Section **41-12a-804** is amended to read:

41-12a-804. Notice -- Proof.

- (1) If the comparison under Section 41-12a-803 shows that a motor vehicle is not insured

for three consecutive months, the Motor Vehicle Division may direct that the designated agent provide notice to the owner of the motor vehicle that he has 45 days to provide:

(a) proof of owner's or operator's security in a form allowed under Subsection 41-12a-303.2(4); or

(b) proof of exemption from the owner's or operator's security requirements.

(2) (a) If an owner of a motor vehicle fails to provide satisfactory proof of owner's or operator's security to the designated agent[-];

(i) the designated agent shall:

(A) indicate information relating to the owner's failure to provide proof of owner's or operator's security in the database; and

(B) provide this information to state and local law enforcement agencies as requested in accordance with the provisions under Section 41-12a-805; and

(ii) the Motor Vehicle Division may:

(A) revoke the registration upon receiving notification under Subsection 41-1a-110(1)(f);
and

(B) direct the designated agent to provide [additional] appropriate notices.

(b) Any action by the Motor Vehicle Division to revoke the registration of a motor vehicle under this Subsection (2) may be in addition to an action by a law enforcement agency to impose the penalties under Section 41-12a-302 or 41-12a-303.2.

(3) The department and the Motor Vehicle Division shall direct the designated agent to exempt from this section a farm truck that:

(a) meets the definition of a farm truck under Section 41-1a-102; and

(b) is registered as a farm truck under Title 41, Chapter 1a, Motor Vehicle Act.

(4) This part does not affect other actions or penalties that may be taken or imposed for violation of the owner's and operator's security requirements of this chapter.

(5) If a comparison under Section 41-12a-803 shows that a motor vehicle may not be in compliance with motor vehicle registration or sales and use tax laws, the Motor Vehicle Division may direct that the designated agent provide notice to the owner of a motor vehicle that information

exists which indicates the possible violation.

Section 7. Section **41-12a-805** is amended to read:

41-12a-805. Disclosure of insurance information -- Penalty.

(1) Information in the database established under Section 41-12a-803 provided by a person to the designated agent is considered to be the property of the person providing the information. The information may not be disclosed from the database under Title 63, Chapter 2, Government Records Access and Management Act, or otherwise, except as follows:

(a) for the purpose of investigating, litigating, or enforcing the owner's or operator's security requirement under Section 41-12a-301, the designated agent shall verify insurance through the state computer network for a state or local government agency;

(b) for the purpose of investigating, litigating, or enforcing the owner's or operator's security requirement under Section 41-12a-301, the designated agent shall, upon request, issue to any state or local government agency a certificate documenting the insurance status, according to the database, of a specific individual or motor vehicle for the time period designated by the government agency;

(c) upon request, the department shall disclose whether or not a person is an insured individual to:

- (i) that individual;
 - (ii) the parent or legal guardian of that individual if the individual is an unemancipated minor;
 - (iii) the legal guardian of that individual if the individual is legally incapacitated;
 - (iv) a person who has power of attorney from the insured individual;
 - (v) a person who submits a notarized release from the insured individual dated no more than 90 days before the date the request is made; or
 - (vi) a person suffering loss or injury in a motor vehicle accident in which the insured individual is involved, but only as part of an accident report as authorized in Section 41-12a-202;
- (d) for the purpose of investigating, enforcing, or prosecuting laws or issuing citations by state or local law enforcement agencies related to the:
- (i) registration and renewal of registration of a motor vehicle under Title 41, Chapter 1a,

Motor Vehicle Act; [and]

(ii) purchase of a motor vehicle under Title 59, Chapter 12, Sales and Use Tax Act; and

(iii) owner's or operator's security requirements under Section 41-12a-301;

(e) upon request of a peace officer acting in an official capacity under the provisions of Subsection (1)(d), the department or the designated agent shall, upon request, disclose relevant information for investigation, enforcement, or prosecution; and

(f) for the purpose of the state auditor [or], the legislative auditor general, or other auditor of the state conducting audits of the program.

(2) Any person who knowingly releases or discloses information from the database for a purpose other than those authorized in this section or to a person who is not entitled to it is guilty of a third degree felony.

(3) An insurer is not liable to any person for complying with Section 31A-22-315 by providing information to the designated agent.

(4) Neither the state nor the department's designated agent are liable to any person for gathering, managing, or using the information in the database as provided in Section 31A-22-315 and this part.