

**IMPOUNDING UNINSURED MOTORIST
VEHICLE**

2003 GENERAL SESSION
STATE OF UTAH

Sponsor: Chad E. Bennion

This act modifies the Motor Vehicle Code to require an uninsured vehicle that is involved in an accident to be impounded by the investigating peace officer. This act makes evidence of current insurance a prerequisite to the release of the vehicle by the Motor Vehicle Division.

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

AMENDS:

41-6-35.5, as last amended by Chapter 85, Laws of Utah 2001

41-6-102.5, as last amended by Chapter 200, Laws of Utah 2002

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

Section 1. Section **41-6-35.5** is amended to read:

41-6-35.5. Vehicle accidents -- Investigation and report of operator security -- Agency action if no security -- Surrender of plates -- Penalties.

(1) Upon request of a peace officer investigating an accident involving a motor vehicle, the operator of the vehicle shall provide evidence of the owner's or operator's security required under Section 41-12a-301.

(2) The peace officer shall record on a form approved by the department:

(a) the information provided by the operator;

(b) whether the operator provided insufficient or no information;

(c) if the officer finds reasonable cause to believe that any information given is not correct; and

(d) whether other information available to the peace officer indicates that owner's or operator's security is in effect.



28 (3) (a) If the evidence of owner's or operator's security that is provided by the operator
29 or that is available to the peace officer gives the peace officer reasonable cause to believe that
30 the vehicle does not have owner's or operator's security as required under Section 41-12a-301,
31 the peace officer shall seize or take possession of the vehicle.

32 (b) Any peace officer seizing or taking possession of a vehicle under this section shall
33 comply with the provisions of Section 41-6-102.5.

34 ~~(3)~~ (4) The peace officer shall deposit all completed forms with his agency, which
35 shall forward the forms to the department no later than ten days after receipt.

36 ~~(4)~~ (5) The department shall within ten days of receipt of the forms from the agency
37 take action as follows:

38 (a) If the operator provided no information under Subsection (1) and other information
39 available to the peace officer does not indicate that owner's or operator's security is in effect,
40 the department shall take direct action under Subsection 53-3-221(12).

41 (b) (i) If the peace officer noted or the department determines that there is reasonable
42 cause to believe that the information given under Subsection (1) is not correct, the department
43 shall contact directly the insurance company or other provider of security as described in
44 Subsection ~~(7)~~ (8) and request verification of the accuracy of the information submitted as of
45 the date of the traffic offense for which the citation was issued.

46 (ii) The department may require the verification under Subsection ~~(4)~~ (5)(b)(i) to be
47 in a form specified by the department.

48 (iii) The insurance company or other provider of security shall return the verification to
49 the department within 30 days of receipt of the request.

50 (iv) If the department does not receive verification within 35 days after sending the
51 request, or within the 35 days receives notice that the information was not correct, the
52 department shall take action under Subsection 53-3-221(12).

53 ~~(5)~~ (6) (a) The owner of a vehicle with unexpired license plates for which security is
54 not provided as required under this chapter shall return the plates for the vehicle to the Motor
55 Vehicle Division unless specifically permitted by statute to retain them.

56 (b) If the owner fails to return the plates as required, they shall be confiscated under
57 Section 53-3-226.

58 ~~(6)~~ (7) The department may make rules for the enforcement of this section.

59 ~~[(7)]~~ (8) In this section, "evidence of owner's or operator's security" includes any one of
60 the following:

- 61 (a) a copy of the operator's valid:
- 62 (i) insurance policy;
- 63 (ii) binder notice;
- 64 (iii) renewal notice; or
- 65 (iv) card issued by an insurance company as evidence of insurance;
- 66 (b) a certificate of insurance issued under Section 41-12a-402;
- 67 (c) a certified copy of a surety bond issued under Section 41-12a-405;
- 68 (d) a certificate of the state treasurer issued under Section 41-12a-406;
- 69 (e) a certificate of self-funded coverage issued under Section 41-12a-407; or
- 70 (f) information that the vehicle or driver is insured from the Uninsured Motorist
71 Identification Database Program created under Title 41, Chapter 12a, Part 8.

72 ~~[(8)]~~ (9) A person is guilty of a class B misdemeanor, and shall be fined not less than
73 \$100, who:

- 74 (a) when requested to provide security information under Subsection (1), or Section
75 41-12a-303.2, provides false information;
- 76 (b) falsely represents to the department that security required under this chapter is in
77 effect; or
- 78 (c) sells a vehicle to avoid the penalties of this section as applicable either to himself or
79 a third party.

80 Section 2. Section **41-6-102.5** is amended to read:

81 **41-6-102.5. Removal and impoundment of vehicles -- Reporting and notification**
82 **requirements.**

83 (1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under
84 Sections 41-1a-1101, 41-6-35.5, 41-6-44.30, 41-6-102, 41-6-116.10, or 73-18-20.1 by an order
85 of a peace officer or by an order of a person acting on behalf of a law enforcement agency or
86 highway authority as defined in Section 72-1-102, the removal or impoundment of the vehicle,
87 vessel, or outboard motor shall be at the expense of the owner, to a state impound yard, or if
88 none, to a garage, docking area, or other place of safety.

89 (2) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be

90 removed by a tow truck motor carrier that meets standards established:

91 (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

92 (b) by the department under Subsection (9).

93 (3) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report

94 of the removal shall be sent to the Motor Vehicle Division by:

95 (i) the peace officer or agency by whom the peace officer is employed; and

96 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
97 operator is employed.

98 (b) The report shall be in a form specified by the Motor Vehicle Division and shall
99 include:

100 (i) the operator's name, if known;

101 (ii) a description of the vehicle, vessel, or outboard motor;

102 (iii) the vehicle identification number or vessel or outboard motor identification
103 number;

104 (iv) the license number or other identification number issued by a state agency;

105 (v) the date, time, and place of impoundment;

106 (vi) the reason for removal or impoundment;

107 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or
108 outboard motor; and

109 (viii) the place where the vehicle, vessel, or outboard motor is stored.

110 (c) Until the tow truck operator or tow truck motor carrier reports the removal as
111 required under Subsection (3), a tow truck motor carrier or impound yard may not:

112 (i) collect any fee associated with the removal; and

113 (ii) begin charging storage fees.

114 (4) (a) Upon receipt of the report, the Motor Vehicle Division shall give notice to the
115 registered owner of the vehicle, vessel, or outboard motor and any lien holder in the manner
116 prescribed by Section 41-1a-114.

117 (b) The notice shall:

118 (i) state the date, time, and place of removal, the name, if applicable, of the person
119 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal,
120 and the place where the vehicle, vessel, or outboard motor is stored;

121 (ii) state that the registered owner is responsible for payment of towing, impound, and
122 storage fees charged against the vehicle, vessel, or outboard motor; and

123 (iii) inform the registered owner of the vehicle, vessel, or outboard motor of the
124 conditions that must be satisfied before the vehicle, vessel, or outboard motor is released.

125 (c) If the vehicle, vessel, or outboard motor is not registered in this state, the Motor
126 Vehicle Division shall make a reasonable effort to notify the registered owner and any lien
127 holder of the removal and the place where the vehicle, vessel, or outboard motor is stored.

128 (d) The Motor Vehicle Division shall forward a copy of the notice to the place where
129 the vehicle, vessel, or outboard motor is stored.

130 (5) (a) The vehicle, vessel, or outboard motor shall be released after the registered
131 owner, lien holder, or the owner's agent:

132 (i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of
133 the State Tax Commission;

134 (ii) presents identification sufficient to prove ownership of the impounded vehicle,
135 vessel, or outboard motor;

136 (iii) completes the registration, if needed, and pays the appropriate fees;

137 (iv) if the impoundment was made under Section 41-6-44.30, pays an administrative
138 impound fee of \$200;

139 (v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard
140 motor is stored[-]; and

141 (vi) if the impoundment was made for insufficient evidence of owner's or operator's
142 security after an accident under Section 41-6-35.5, provides evidence in accordance with
143 Section 41-12a-303.2 that the vehicle is covered by owner's or operator's security as required
144 under Section 41-12a-301.

145 (b) (i) Twenty-five dollars of the impound fees assessed under Subsection (5)(a)(iv) are
146 dedicated credits to the Motor Vehicle Division;

147 (ii) \$84 of the impound fees assessed under Subsection (5)(a)(iv) shall be deposited in
148 the Department of Public Safety Restricted Account created in Section 53-3-106; and

149 (iii) the remainder of the impound fees assessed under Subsection (5)(a)(iv) shall be
150 deposited in the General Fund.

151 (6) An impounded vehicle, vessel, or outboard motor not claimed by the registered

152 owner or the owner's agent within the time prescribed by Section 41-1a-1103 shall be sold in
153 accordance with that section and the proceeds, if any, shall be disposed of as provided in
154 Section 41-1a-1104. The date of impoundment is considered the date of seizure for computing
155 the time period provided in Section 41-1a-1103.

156 (7) The registered owner who pays all fees and charges incurred in the impoundment of
157 the owner's vehicle, vessel, or outboard motor, has a cause of action for all the fees and
158 charges, together with damages, court costs, and attorney fees, against the operator of the
159 vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

160 (8) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel,
161 or outboard motor.

162 (9) The department shall make rules in accordance with Title 63, Chapter 46a, Utah
163 Administrative Rulemaking Act, setting the performance standards for towing companies to be
164 used by the department.

165 (10) (a) The Motor Vehicle Division may specify that a report required under
166 Subsection (3) be submitted in electronic form utilizing a database for submission, storage, and
167 retrieval of the information.

168 (b) Unless otherwise provided by statute, the Motor Vehicle Division or the
169 administrator of the database may adopt a schedule of fees assessed for utilizing the database.
170 The fees shall be reasonable and fair and shall reflect the cost of administering the database.

Legislative Review Note
as of 12-10-02 1:16 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note**Impounding Uninsured Motorist Vehicle***20-Jan-03***Bill Number HB0179***12:10 PM*

State Impact

It is estimated that provisions of this bill can be implemented with existing resources.

Individual and Business Impact

Owners of uninsured vehicles involved in accidents will be required to obtain insurance and pay an impound fee as a prerequisite for release of the vehicle. Under these circumstances, the cost of insurance will likely be very expensive.

Office of the Legislative Fiscal Analyst

