

SB0244S01 compared with SB0244

~~{deleted text}~~ shows text that was in SB0244 but was deleted in SB0244S01.

inserted text shows text that was not in SB0244 but was inserted into SB0244S01.

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Senator Kevin T. Van Tassell proposes the following substitute bill:

REPORTING OPTIONS FOR AUTO INSURANCE

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Insurance Code and Motor Vehicles Code by amending provisions relating to motor vehicle insurance reporting.

Highlighted Provisions:

This bill:

- ▶ provides that ~~{each insurer that issues a policy that includes certain motor vehicle and commercial}~~certain insurers that issue motor vehicle coverage for certain motor vehicles shall, upon request, provide to the Department of Public Safety's designated agent verification of whether or not a ~~{motor vehicle or commercial}~~ motor vehicle insurance policy is in effect for a specified vehicle;
- ▶ provides that ~~{each}~~the insurer shall provide the verification using an electronic service established by the insurers, through the Internet, world wide web, or a

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similar proprietary or common carrier electronic system that

- ~~• is compliant with certain standards;~~
- ~~• is available 24 hours a day, seven days a week, subject to reasonable allowances for scheduled maintenance or temporary system failures; and~~
- ~~• includes appropriate security measures, consistent with industry standards, to secure its data against unauthorized access and to maintain a record of all information requests; and~~
- makes conforming and requirements:
 - ▶ provides that the designated agent shall make available the verification information provided by insurers to:
 - state and local law enforcement agencies; and
 - certain financial institutions;
 - ▶ provides a July 1, 2015 sunset date; and
 - ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2013.

Utah Code Sections Affected:

AMENDS:

~~{ 31A-22-315, as last amended by Laws of Utah 2008, Chapter 382~~

~~} 41-12a-803, as last amended by Laws of Utah 2011, Chapter 342~~

41-12a-805, as last amended by Laws of Utah 2009, Chapter 183

63I-2-231, as last amended by Laws of Utah 2011, Chapter 284

ENACTS:

31A-22-315.5, Utah Code Annotated 1953

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

Section 1. Section 31A-22-315.5 is ~~{amended}~~ enacted to read:

31A-22-315.5. ~~{ Motor}~~ 5. Motor vehicle insurance ~~{reporting -- Penalty.~~

~~(1) (a) As used in this section, "commercial motor vehicle insurance coverage"~~

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~~means an insurance policy that:~~

~~—— (i) includes motor vehicle liability coverage, uninsured motorist coverage, underinsured motorist coverage, or personal injury coverage; and~~

~~—— (ii) is defined by the department.~~

~~—— (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules defining commercial motor vehicle insurance coverage.~~

~~—— (2) verification.~~

~~(1) (a) Except as provided in Subsections (1)(b) and (c), each insurer that issues a policy that includes motor vehicle liability coverage, uninsured motorist coverage,~~

~~underinsured motorist coverage, or personal injury coverage under this part shall:~~

~~—— (i) before the seventh and twenty-first day of each calendar month provide to the Department of Public Safety's designated agent selected in accordance with Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program, a record of each motor vehicle insurance policy in effect for vehicles registered or garaged in Utah as of the previous submission that was issued by the insurer[.]; and~~

~~—— (ii) upon request, provide to the Department of Public Safety's designated agent selected in accordance with Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program, verification of whether or not a motor vehicle insurance policy is in effect for a specified vehicle.~~

~~{(b) Each insurer that issues commercial motor vehicle insurance coverage shall:~~

~~—— (i) before the seventh day of each calendar month provide to the Department of Public Safety's designated agent selected in accordance with Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program, a record of each commercial motor vehicle insurance policy in effect for vehicles registered or garaged in Utah as of the previous month that was issued by the insurer[.]; and~~

~~—— (ii) upon request, provide to the Department of Public Safety's designated agent selected in accordance with Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program, verification of whether or not a commercial motor vehicle insurance policy is in effect for a specified vehicle.~~

~~—— (c) (b) An insurer that issues a policy that includes motor vehicle liability coverage,~~

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uninsured motorist coverage, underinsured motorist coverage, or personal injury coverage under this part is not required to provide ~~{a record}~~ verification of a motor vehicle insurance policy in effect for a vehicle to the Department of Public Safety's designated agent under Subsection ~~(2)(1)(a) for~~ if:

~~(b)(i) if~~ the policy covers a vehicle that is registered under Section 41-1a-221, 41-1a-222, or 41-1a-301 ~~;~~.

~~— (d) This Subsection (2) does not preclude more frequent reporting.~~

~~— (3) (a) A record provided by an insurer under Subsection (2)(a)(i) shall include:~~

~~— (i) the name, date of birth, and driver license number, if the insured provides a driver license number to the insurer, of each insured owner or operator, and the address of the named insured;~~

~~— (ii) the make, year, and vehicle identification number of each insured vehicle; and~~

~~— (iii) the policy number, effective date, and expiration date of each policy.~~

~~— (b) A record provided by an insurer under Subsection (2)(b)(i) shall include:~~

~~— (i) the named insured;~~

~~— ;~~

~~(ii) the policy ~~number, effective date, and expiration date of each policy; and~~~~

~~— (iii) the following information, if available:~~

~~— (A) the name, date of birth, and driver license number of each insured owner or operator, and the address of the named insured; and~~

~~— (B) the make, year, and vehicle identification number of each insured vehicle.~~

~~— (4) (a) Each insurer shall provide ~~[this]~~ the information required under Subsections (2)(a)(i) and (b)(i) by an electronic means or by another form the Department of Public Safety's designated agent agrees to accept.~~

~~— (b) covers a commercial motor vehicle; or~~

~~(iii) the insurer issues less than 500 motor vehicle liability policies.~~

(2) Each insurer shall provide the verification required under ~~{Subsections}~~ Subsection (2)(a)(ii) and (b)(ii)(1) using an electronic service established by the insurers, through the Internet, world wide web, or a similar proprietary or common carrier electronic system that:

~~(ii) a~~ is compliant with:

(i) the specifications and standards of the Insurance Industry Committee on Motor

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Vehicle Administration; and

(ii) other applicable industry standards;

(~~iii~~b) is available 24 hours a day, seven days a week, subject to reasonable allowances

for:

(i) scheduled maintenance; or

(ii) temporary system failures; and

(~~iii~~c) includes appropriate security measures, consistent with industry standards, to:

(i) secure its data against unauthorized access; and ~~to~~

(ii) maintain a record of all information requests.

~~{ (5) (a) The commissioner may, following procedures set forth in Title 63G, Chapter 4, Administrative Procedures Act, assess a fine against an insurer of up to \$250 for each day the insurer fails to comply with [this section] the requirements under Subsections (2)(a)(i) and (b)(i):~~

~~— (b) If an insurer shows that the failure to comply with [this section] the requirements under Subsections (2)(a)(i) and (b)(i) was inadvertent, accidental, or the result of excusable neglect, the commissioner shall excuse the fine.~~

~~‡~~ Section 2. 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;

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

(d) assist in protecting a financial institution's bona fide security interest in a motor vehicle; and

(e) assist in the identification and prevention of identity theft and other crimes.

(2) The program shall be administered by the department with the assistance of the

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designated agent and the Motor Vehicle Division.

(3) (a) The department shall contract in accordance with Title 63G, Chapter 6, Utah Procurement Code, with a third party to 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 money than is 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~~ Subsections 31A-22-315 ~~(2)(a)(i) and (b)(i)~~;
- (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 and financial institutions as defined in Section 7-1-103 can efficiently access the records of the database, including reports useful for the implementation of the provisions of this part.

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

(B) The reports may be made available through the Internet or through other electronic medium, if the department determines that sufficient security is provided to ensure compliance with Section 41-12a-805 regarding limitations on disclosure of information in the database.

(5) With information provided by the department and the Motor Vehicle Division, the designated agent shall, at least monthly for submissions under Subsection 31A-22-315(2)(b) ~~(i)~~ or at least twice a month for submissions under Subsection 31A-22-315(2)(a) ~~(i)~~:

(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 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules and develop procedures in cooperation with the Motor Vehicle

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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 every three years.

(c) The audit under Subsection (8)(b) 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.

(9) Upon request, the designated agent shall make available the information provided by insurers under Section 31A-22-315.5 to:

(a) state and local law enforcement agencies; and

(b) financial institutions as defined in Section 7-1-103.

Section 3. 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.

(2) The information may not be disclosed from the database under Title 63G, 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 information through the state computer network for a state or local government agency or court:

(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 or court a certificate documenting the insurance information, 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 or its designated agent shall disclose whether or not a person is an insured individual and the insurance company name to:

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(i) that individual or, if that individual is deceased, any interested person of that individual, as defined in Section 75-1-201;

(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;

(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 (2)(d), the department or the designated agent shall, upon request, disclose relevant information for investigation, enforcement, or prosecution;

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

(g) upon request of a financial institution as defined under Section 7-1-103 for the purpose of protecting the financial institution's bona fide security interest in a motor vehicle; and

(h) upon the request of a state or local law enforcement agency for the purpose of investigating and prosecuting identity theft and other crimes.

(3) (a) The department may allow the designated agent to prepare and deliver upon request, a report on the insurance information of a person or motor vehicle in accordance with this section.

(b) The report may be in the form of:

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(i) a certified copy that is considered admissible in any court proceeding in the same manner as the original; or

(ii) information accessible through the Internet or through other electronic medium if the department determines that sufficient security is provided to ensure compliance with this section.

(c) The department may allow the designated agent to charge a fee established by the department under Section 63J-1-504 for each:

(i) document authenticated, including each certified copy;

(ii) record accessed by the Internet or by other electronic medium; and

(iii) record provided to a financial institution under Subsection (2)(g).

(4) A 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.

(5) An insurer is not liable to any person for complying with [Section] Sections 31A-22-315 and 31A-22-315.5 by providing information to the designated agent.

(6) Neither the state nor the department's designated agent is liable to any person for gathering, managing, or using the information in the database as provided in [Section] Sections 31A-22-315 and 31A-22-315.5 and this part.

Section 4. Section **63I-2-231** is amended to read:

63I-2-231. Repeal dates, Title 31A.

(1) Section 31A-22-315.5 is repealed July 1, 2015.

(2) Title 31A, Chapter 42, Defined Contribution Risk Adjuster Act, is repealed January 1, 2013.

Section ~~3}5~~5. **Effective date.**

This bill takes effect on January 1, 2013.

†

Legislative Review Note

— as of ~~2-14-12~~ **2-14-12 12:37 PM**

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~~Office of Legislative Research and General Counsel~~