

**ELECTRONIC PROOF OF OWNER'S OR OPERATOR'S
SECURITY**

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Derek E. Brown

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill modifies the Financial Responsibility of Motor Vehicle Owners and Operators Act by amending provisions relating to evidence of owner's or operator's security.

Highlighted Provisions:

This bill:

- ▶ provides that a person may provide evidence of owner's or operator's security to a peace officer in a hard copy format or in an electronic format using a mobile electronic device;

- ▶ provides that if a person provides evidence of owner's or operator's security in an electronic format using a mobile electronic device, the peace officer viewing the owner's or operator's security on the mobile electronic device may not view any other content on the mobile electronic device;

- ▶ provides that a peace officer is not subject to civil liability or criminal penalties if the peace officer inadvertently views content other than the evidence of owner's or operator's security on the mobile electronic device; and

- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

30 AMENDS:

31 **41-1a-109**, as last amended by Laws of Utah 2010, Chapter 260

32 **41-12a-303.2**, as last amended by Laws of Utah 2010, Chapter 260

33 **41-12a-804**, as last amended by Laws of Utah 2010, Chapter 260

34

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

36 Section 1. Section **41-1a-109** is amended to read:

37 **41-1a-109. Grounds for division refusing registration or certificate of title.**

38 (1) The division shall refuse registration or issuance of a certificate of title or any
39 transfer of registration upon any of the following grounds:

40 (a) the application contains any false or fraudulent statement;

41 (b) the applicant has failed to furnish required information or reasonable additional
42 information requested by the division;

43 (c) the applicant is not entitled to the issuance of a certificate of title or registration of
44 the vehicle under this chapter;

45 (d) the division has reasonable grounds to believe that the vehicle is a stolen vehicle or
46 that the granting of registration or the issuance of a certificate of title would constitute a fraud
47 against the rightful owner or other person having a valid lien upon the vehicle;

48 (e) the registration of the vehicle is suspended or revoked for any reason provided in
49 the motor vehicle laws of this state; or

50 (f) the required fees have not been paid.

51 (2) The division shall also refuse registration or any transfer of registration if the
52 vehicle is mechanically unfit or unsafe to be operated or moved upon the highways.

53 (3) The division shall refuse registration or any transfer of registration of a vehicle
54 upon notification by the Department of Transportation that the vehicle or owner is not in
55 compliance with Title 72, Chapter 9, Motor Carrier Safety Act.

56 (4) The division may not register a vehicle if the registration of the vehicle is revoked
57 under Subsection 41-1a-110(2) until the applicant provides proof:

58 (a) of owner's or operator's security in a form allowed under Subsection
59 41-12a-303.2(2)[(b)];

60 (b) of exemption from the owner's or operator's security requirements; or

61 (c) that the applicant was not an owner of the vehicle at the time of the alleged
62 violation or on the day following the time limit provided after the second notice under
63 Subsection 41-12a-804(2).

64 Section 2. Section **41-12a-303.2** is amended to read:

65 **41-12a-303.2. Evidence of owner's or operator's security to be carried when**
66 **operating motor vehicle -- Defense -- Penalties.**

67 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

83 (A) insurance policy;

84 (B) insurance policy declaration page;

85 (C) binder notice;

- 86 (D) renewal notice; or
- 87 (E) card issued by an insurance company as evidence of insurance;
- 88 (ii) a certificate of insurance issued under Section 41-12a-402;
- 89 (iii) a certified copy of a surety bond issued under Section 41-12a-405;
- 90 (iv) a certificate of the state treasurer issued under Section 41-12a-406;
- 91 (v) a certificate of self-funded coverage issued under Section 41-12a-407; or
- 92 (vi) information that the vehicle or driver is insured from the Uninsured Motorist
- 93 Identification Database Program created under Title 41, Chapter 12a, Part 8.

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

- 96 (A) a hard copy format; or
- 97 (B) an electronic format using a mobile electronic device.

98 (ii) If a person provides evidence of owner's or operator's security in an electronic
99 format using a mobile electronic device under this Subsection (2)(c), the peace officer viewing
100 the owner's or operator's security on the mobile electronic device may not view any other
101 content on the mobile electronic device.

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

106 [~~(e)~~] (d) (i) Evidence of owner's or operator's security from the Uninsured Motorist
107 Identification Database Program described under Subsection (2)(b)(vi) supercedes any
108 evidence of owner's or operator's security described under Subsection (2)(b)(i)(D) or (E).

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

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

114 the person's citation or arrest.

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

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

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

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

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

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

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

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

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

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

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

139 (iii) An insurer that provides a certificate of insurance as provided under Section
140 41-12a-402 or 41-12a-403 may not terminate the insurance policy unless notice of termination
141 is filed with the department no later than 10 days after termination as required under Section

142 41-12a-404.

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

147 Section 3. Section **41-12a-804** is amended to read:

148 **41-12a-804. Notice -- Proof -- Revocation of registration -- False statements --**
149 **Penalties -- Exemptions -- Sales tax enforcement.**

150 (1) If the comparison under Section 41-12a-803 shows that a motor vehicle is not
151 insured for three consecutive months, the Motor Vehicle Division shall direct that the
152 designated agent provide notice to the owner of the motor vehicle that the owner has 15 days to
153 provide:

154 (a) proof of owner's or operator's security in a form allowed under Subsection
155 41-12a-303.2(2)[~~(b)~~]; or

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

157 (2) If an owner of a motor vehicle fails to provide satisfactory proof of owner's or
158 operator's security to the designated agent, the designated agent shall:

159 (a) provide a second notice to the owner of the motor vehicle that the owner now has
160 15 days to provide:

161 (i) proof of owner's or operator's security in a form allowed under Subsection
162 41-12a-303.2(2)[~~(b)~~]; or

163 (ii) proof of exemption from the owner's or operator's security requirements;

164 (b) for each notice provided, indicate information relating to the owner's failure to
165 provide proof of owner's or operator's security in the database; and

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

168 (3) The Motor Vehicle Division:

169 (a) shall revoke the registration upon receiving notification under Subsection

170 41-1a-110(2);

171 (b) shall provide appropriate notices of the revocation, the legal consequences of
172 operating a vehicle with revoked registration and without owner's or operator's security, and
173 instructions on how to get the registration reinstated; and

174 (c) may direct the designated agent to provide the notices under this Subsection (3).

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

178 (5) (a) A person may not provide a false or fraudulent statement to the Motor Vehicle
179 Division or designated agent.

180 (b) In addition to any other penalties, a person who violates Subsection (5)(a) is guilty
181 of a class B misdemeanor.

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

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

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

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

188 (8) If a comparison under Section 41-12a-803 shows that a motor vehicle may not be in
189 compliance with motor vehicle registration or sales and use tax laws, the Motor Vehicle
190 Division may direct that the designated agent provide notice to the owner of a motor vehicle
191 that information exists which indicates the possible violation.