

**Senator Todd Weiler** proposes the following substitute bill:

**EMERGENCY VEHICLE OPERATOR DUTY OF CARE**

**REVISIONS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brad L. Dee**

Senate Sponsor: Todd Weiler

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**LONG TITLE**

**General Description:**

This bill modifies the Traffic Code by amending provisions relating to the duty of care for an emergency vehicle operator.

**Highlighted Provisions:**

This bill:

► provides that the operator of an authorized emergency vehicle owes no duty of care to a person who is:

- a suspect in the commission of a crime and evading, fleeing, or otherwise attempting to elude the operator of an authorized emergency vehicle; or

- in a motor vehicle with the suspect, unless it is proven by a preponderance of the evidence that the person's presence in the motor vehicle was involuntary and the person's participation in evading, fleeing, or attempting to elude was involuntary;

- provides that an operator of an authorized emergency vehicle may be held liable for a fleeing suspect's injuries in certain circumstances;

- provides that if an operator of an authorized emergency vehicle complies with certain requirements while operating the authorized emergency vehicle, the operator



26 shall be deemed to have met the operator's duty to act as a reasonably prudent emergency  
27 vehicle operator in like circumstances; and  
28       ▶ makes technical corrections.

29 **Money Appropriated in this Bill:**

30       None

31 **Other Special Clauses:**

32       None

33 **Utah Code Sections Affected:**

34 AMENDS:

35       **41-6a-212**, as last amended by Laws of Utah 2008, Chapter 382



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

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

39       **41-6a-212. Emergency vehicles -- Policy regarding vehicle pursuits --**

40 **Applicability of traffic law to highway work vehicles -- Exemptions.**

41       (1) Subject to Subsections (2) through (5), the operator of an authorized emergency  
42 vehicle may exercise the privileges granted under this section when:

- 43       (a) responding to an emergency call;
- 44       (b) in the pursuit of an actual or suspected violator of the law; or
- 45       (c) responding to but not upon returning from a fire alarm.

46       (2) The operator of an authorized emergency vehicle may:

- 47       (a) park or stand, irrespective of the provisions of this chapter;
- 48       (b) proceed past a red or stop signal or stop sign, but only after slowing down as may  
49 be necessary for safe operation;

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

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

54       (3) (a) Except as provided in Subsection (3)(b), privileges granted under this section to  
55 the operator of an authorized emergency vehicle, who is not involved in a vehicle pursuit,  
56 apply only when:

57 (i) the operator of the vehicle sounds an audible signal under Section 41-6a-1625; or  
58 (ii) uses a visual signal with emergency lights in accordance with rules made under  
59 Section 41-6a-1601, which is visible from in front of the vehicle.

60 (b) An operator of an authorized emergency vehicle may exceed the maximum speed  
61 limit when engaged in normal patrolling activities with the purpose of identifying and  
62 apprehending violators.

63 (4) Privileges granted under this section to the operator of an authorized emergency  
64 vehicle involved in any vehicle pursuit apply only when:

65 (a) the operator of the vehicle:

66 (i) sounds an audible signal under Section 41-6a-1625; and

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

69 (b) the public agency employing the operator of the vehicle has, in effect, a written  
70 policy which describes the manner and circumstances in which any vehicle pursuit should be  
71 conducted and terminated;

72 (c) the operator of the vehicle has been trained in accordance with the written policy  
73 described in Subsection (4)(b); and

74 (d) the pursuit policy of the public agency is in conformance with standards established  
75 under Subsection (5).

76 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
77 Department of Public Safety shall make rules providing minimum standards for all emergency  
78 pursuit policies that are adopted by public agencies authorized to operate emergency pursuit  
79 vehicles.

80 (6) ~~[The]~~ (a) Except as provided in Subsection (6)(b), the privileges granted under this  
81 section do not relieve the operator of an authorized emergency vehicle of the duty to act as a  
82 reasonably prudent emergency vehicle operator in like circumstances.

83 (b) The operator of an authorized emergency vehicle owes no duty of care under this  
84 Subsection (6) to a person who is:

85 (i) (A) a suspect in the commission of a crime; and

86 (B) evading, fleeing, or otherwise attempting to elude the operator of an authorized  
87 emergency vehicle; or

88 (ii) in a motor vehicle with the suspect described in Subsection (6)(b)(i), unless it is  
89 proven by a preponderance of the evidence that:

90 (A) the person's presence in the vehicle was involuntary; and

91 (B) the person's participation in evading, fleeing, or attempting to elude was  
92 involuntary.

93 (c) (i) Notwithstanding Subsection (6)(b), an operator of an authorized emergency  
94 vehicle may be held liable for a fleeing suspect's injuries if the operator of an authorized  
95 emergency vehicle had actual intent to cause harm to the fleeing suspect in an act that was  
96 unrelated to the legitimate object of the arrest.

97 (ii) "Actual intent" under this Subsection (6)(c) means a malicious motive to cause  
98 injury, not merely an intent to do the act purportedly resulting in the injury.

99 (d) If an operator of an authorized emergency vehicle complies with the requirements  
100 described in Subsections (4) and (5) while operating the authorized emergency vehicle, the  
101 operator shall be deemed to have met the operator's duty to act as a reasonably prudent  
102 emergency vehicle operator in like circumstances.

103 (7) Except for Sections [41-6a-210](#), [41-6a-502](#), and [41-6a-528](#), this chapter does not  
104 apply to persons, motor vehicles, and other equipment while actually engaged in work on the  
105 surface of a highway.