

Senator Lyle W. Hillyard proposes the following substitute bill:

UNINSURED MOTORIST PROVISIONS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Jack R. Draxler

LONG TITLE

General Description:

This bill modifies provisions relating to uninsured motorists.

Highlighted Provisions:

This bill:

- ▶ provides that the Motor Vehicle Division or a peace officer shall seize and take possession of any vehicle that is being operated on a highway without owner's or operator's security in effect for the vehicle except in certain circumstances;
- ▶ provides that money in the Uninsured Motorist Identification Restricted Account shall be appropriated to the Department of Public Safety to reimburse a person for the costs of towing and storing the person's vehicle in certain circumstances;
- ▶ requires the Department of Public Safety to hold a hearing to determine whether a vehicle was wrongfully impounded;
- ▶ grants the Department of Public Safety rulemaking authority to make rules establishing procedures for a person to apply for a reimbursement; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 This bill takes effect on January 1, 2015.

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **41-1a-1101**, as last amended by Laws of Utah 2011, Chapter 246

30 **41-1a-1103**, as last amended by Laws of Utah 2010, Chapter 295

31 **41-12a-806**, as last amended by Laws of Utah 2008, Chapter 322



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

34 Section 1. Section **41-1a-1101** is amended to read:

35 **41-1a-1101. Seizure -- Circumstances where permitted -- Impound lot standards.**

36 (1) ~~[(a)]~~ The division or any peace officer, without a warrant, may seize and take
37 possession of any vehicle, vessel, or outboard motor:

38 ~~[(i)]~~ (a) that the division or the peace officer has reason to believe has been stolen;

39 ~~[(ii)]~~ (b) on which any identification number has been defaced, altered, or obliterated;

40 ~~[(iii)]~~ (c) that has been abandoned in accordance with Section **41-6a-1408**;

41 ~~[(iv)]~~ (d) for which the applicant has written a check for registration or title fees that
42 has not been honored by the applicant's bank and that is not paid within 30 days;

43 ~~[(v)]~~ (e) that is placed on the water with improper registration;

44 ~~[(vi)]~~ (f) that is being operated on a highway:

45 ~~[(A)]~~ (i) with registration that has been expired for more than three months;

46 ~~[(B)]~~ (ii) having never been properly registered by the current owner; or

47 ~~[(C)]~~ (iii) with registration that is suspended or revoked; or

48 ~~[(D)]~~ subject to the restriction in Subsection (1)(b), without owner's or operator's
49 security in effect for the vehicle as required under Section **41-12a-301**; or]

50 ~~[(vii)-(A)]~~ (g) (i) that the division or the peace officer has reason to believe has been
51 involved in an accident described in Section **41-6a-401**, **41-6a-401.3**, or **41-6a-401.5**; and

52 ~~[(B)]~~ (ii) whose operator did not remain at the scene of the accident until the operator
53 fulfilled the requirements described in Section **41-6a-401** or **41-6a-401.7**.

54 (2) (a) Subject to the restriction in Subsection (2)(b), the division or any peace officer,
55 without a warrant, shall seize and take possession of any vehicle that is being operated on a
56 highway without owner's or operator's security in effect for the vehicle as required under

57 Section 41-12a-301 unless the division or any peace officer makes a reasonable determination
58 that:

59 (i) the seizure of the vehicle would present a public safety concern to the operator or
60 any of the occupants in the vehicle; or

61 (ii) the impoundment of the vehicle would prevent the division or the peace officer
62 from addressing other public safety considerations.

63 (b) The division or any peace officer may not seize and take possession of a vehicle
64 under Subsection ~~[(1)(a)(vi)(D)]~~ (2)(a):

65 (i) if the operator of the vehicle is not carrying evidence of owner's or operator's
66 security as defined in Section 41-12a-303.2 in the vehicle unless the division or peace officer
67 verifies that owner's or operator's security is not in effect for the vehicle through the Uninsured
68 Motorist Identification Database created in accordance with Section 41-12a-803[-]; or

69 (ii) if the operator of the vehicle is carrying evidence of owner's or operator's security
70 as defined in Section 41-12a-303.2 in the vehicle and the Uninsured Motorist Identification
71 Database created in accordance with Section 41-12a-803 indicates that the owner's or operator's
72 security is not in effect for the vehicle, unless the division or a peace officer makes a
73 reasonable attempt to independently verify that owner's or operator's security is not in effect for
74 the vehicle.

75 ~~[(2)]~~ (3) If necessary for the transportation of a seized vessel, the vessel's trailer may be
76 seized to transport and store the vessel.

77 ~~[(3)]~~ (4) Any peace officer seizing or taking possession of a vehicle, vessel, or
78 outboard motor under this section shall comply with the provisions of Section 41-6a-1406.

79 ~~[(4)]~~ (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
80 Act, the commission shall make rules setting standards for public garages, impound lots, and
81 impound yards that may be used by peace officers and the division.

82 (b) The standards shall be equitable, reasonable, and unrestrictive as to the number of
83 public garages, impound lots, or impound yards per geographical area.

84 ~~[(5)]~~ (6) (a) Except as provided under Subsection ~~[(5)]~~ (6)(b), a person may not operate
85 or allow to be operated a vehicle stored in a public garage, impound lot, or impound yard
86 regulated under this part without prior written permission of the owner of the vehicle.

87 (b) Incidental and necessary operation of a vehicle to move the vehicle from one

88 parking space to another within the facility and that is necessary for the normal management of
89 the facility is not prohibited under Subsection [~~(5)~~] (6)(a).

90 [~~(6)~~] (7) A person who violates the provisions of Subsection [~~(5)~~] (6) is guilty of a
91 class C misdemeanor.

92 [~~(7)~~] (8) The division or the peace officer who seizes a vehicle shall record the mileage
93 shown on the vehicle's odometer at the time of seizure, if:

- 94 (a) the vehicle is equipped with an odometer; and
- 95 (b) the odometer reading is accessible to the division or the peace officer.

96 Section 2. Section **41-1a-1103** is amended to read:

97 **41-1a-1103. Sale.**

98 (1) If the owner or lienholder of a seized vehicle, vessel, or outboard motor does not
99 recover the vehicle, vessel, or outboard motor within 30 days from the date of seizure, or if the
100 division is unable to determine the owner or lienholder through reasonable efforts, the division
101 shall sell the vehicle, vessel, or outboard motor.

102 (2) The sale shall:

- 103 (a) be held in the form of a public auction at the place of storage; and
- 104 (b) at the discretion of the division, be conducted by:
 - 105 (i) an authorized representative of the division; or
 - 106 (ii) a public garage, impound lot, or impound yard that:
 - 107 (A) is authorized by the division;
 - 108 (B) meets the standards under Subsection **41-1a-1101** [~~(4)~~](5); and
 - 109 (C) complies with the requirements of Section **72-9-603**.

110 (3) At least five days prior to the date set for sale, the division shall publish a notice of
111 sale setting forth the date, time, and place of sale and a description of the vehicle, vessel, or
112 outboard motor to be sold:

- 113 (a) on the division's website; and
- 114 (b) as required in Section **45-1-101**.

115 (4) At the time of sale the division or other person authorized to conduct the sale shall
116 tender to the highest bidder a certificate of sale conveying all rights, title, and interest in the
117 vehicle, vessel, or outboard motor.

118 (5) The proceeds from the sale of a vehicle, vessel, or outboard motor under this

119 section shall be distributed as provided under Section 41-1a-1104.

120 (6) If the owner or lienholder of a vehicle, vessel, or outboard motor seized under
 121 Section 41-1a-1101 and subsequently released by the division fails to take possession of the
 122 vehicle, vessel, or outboard motor and satisfy the amount due to the place of storage within 30
 123 days from the date of release, the division shall renotify the owner or lienholder and sell the
 124 vehicle, vessel, or outboard motor, in accordance with this section, 30 days from the date of the
 125 notice.

126 Section 3. Section 41-12a-806 is amended to read:

127 **41-12a-806. Restricted account -- Creation -- Funding -- Interest -- Purposes.**

128 (1) There is created within the Transportation Fund a restricted account known as the
 129 "Uninsured Motorist Identification Restricted Account."

130 (2) The account consists of money generated from the following revenue sources:

131 (a) money received by the state under Section 41-1a-1218, the uninsured motorist
 132 identification fee;

133 (b) money received by the state under Section 41-1a-1220; and

134 (c) appropriations made to the account by the Legislature.

135 (3) (a) The account shall earn interest.

136 (b) All interest earned on account money shall be deposited into the account.

137 (4) Money shall be appropriated from the account by the Legislature to:

138 (a) the department to fund the contract with the designated agent;

139 (b) the department to offset the costs to state and local law enforcement agencies of
 140 using the information for the purposes authorized under this part; [~~and~~]

141 (c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking
 142 and reinstating vehicle registrations under Subsection 41-1a-110(2)(a)(ii)[-]; and

143 (d) the department to reimburse a person for the costs of towing and storing the
 144 person's vehicle if:

145 (i) the person's vehicle was impounded in accordance with Subsection 41-1a-1101(2);

146 (ii) the impounded vehicle had owner's or operator's security in effect for the vehicle at
 147 the time of the impoundment;

148 (iii) the database indicated that owner's or operator's security was not in effect for the
 149 impounded vehicle; and

150 (iv) the department determines that the person's vehicle was wrongfully impounded.

151 (5) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures
152 Act, the department shall hold a hearing to determine whether a person's vehicle was
153 wrongfully impounded under Subsection [41-1a-1101\(2\)](#).

154 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
155 division shall make rules establishing procedures for a person to apply for a reimbursement
156 under Subsection (4)(d).

157 (c) A person is not eligible for a reimbursement under Subsection (4)(d) unless the
158 person applies for the reimbursement within six months from the date that the motor vehicle
159 was impounded.

160 **Section 4. Effective date.**

161 This bill takes effect on January 1, 2015.