

Part 5

Post-Accident Security Requirements and Satisfaction of Judgments

41-12a-501 Post-accident security.

- (1)
 - (a) Unless excepted under Subsection (2), the operator of a motor vehicle involved in an accident in the state and any owner who has not previously satisfied the requirement of security under Section 41-12a-301 shall file post-accident security with the department for the benefit of persons obtaining judgments against the operator on account of bodily injury, death, or property damage caused by the accident.
 - (b) The security shall be in an amount determined by the department to be sufficient to satisfy judgments arising from bodily injury, death, or property damage resulting from the accident that may be recovered against the operator, but may not exceed the minimum single limit under Subsection 31A-22-304(2).
 - (c) The department shall determine the amount of post-accident security on the basis of reports and other evidence submitted to the department by interested parties, including officials investigating the accident.
 - (d) In setting the amount of post-accident security, the department may not take into account alleged damages resulting from pain and suffering.
 - (e) Persons who fail to file required post-accident security are subject to the penalties under Subsection (3).
- (2) The operator is exempted from the post-accident requirement under Subsection (1) if any of the following conditions are satisfied:
 - (a) No bodily injury, death, or damage to the property of one person in excess of the damage limit specified under Section 41-6a-401 resulted from the accident.
 - (b) No injury, death, or property damage was suffered by any person other than the owner or operator.
 - (c) The owner of the motor vehicle was in compliance with the owner's security requirement under Section 41-12a-301 at the time of the accident and the operator had permission from the owner to operate the motor vehicle.
 - (d) The operator was in compliance with the operator's security requirement under Section 41-12a-301 at the time of the accident.
 - (e) The operator has filed satisfactory evidence with the department that the operator has been released from liability, has been finally adjudicated not to be liable, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident and is not in default on that agreement.
 - (f) The motor vehicle involved in the accident was operated by a nonresident who had an insurance policy or bond covering the accident, but not fully complying with the policy provision requirements under Section 31A-22-302, if the policy or bond is sufficient to provide full recovery for claimants and the policy or bond is issued by an insurer licensed in the state.
 - (g) The operator at the time of the accident was operating a motor vehicle owned or leased by the operator's employer and driven with the employer's permission.
 - (h) Evidence as to the extent of injuries or property damage caused by the accident has not been submitted by or on behalf of any person affected by the accident within six months following the date of the accident.
 - (i) The motor vehicle was legally parked at the time of the accident.

- (j) The motor vehicle was an emergency vehicle acting in the line of duty at the time of the accident.
 - (k) The motor vehicle involved in the accident is owned by the United States, this state, or any political subdivision of this state, if the operator was using the vehicle with the permission of the owner.
 - (l) The motor vehicle was legally stopped at a stop sign, traffic signal, or at the direction of a peace officer at the time of the accident.
- (3)
- (a) If an operator who is required to file post-accident security under Subsection (1) does not do so within 10 days after receiving notice of the requirement of security, the department shall suspend the driver's license of the operator and all registrations of the owner, if he is a resident of the state.
 - (b) If the operator is not a resident of Utah, the department shall suspend the privilege of operating a motor vehicle within the state and of using, in the state, any owned motor vehicle.
 - (c) Notice of these suspensions shall be sent to the owner or operator no less than 15 days prior to the effective date of the suspension.

Amended by Chapter 2, 2005 General Session

41-12a-502 Accident reports.

- (1)
- (a) Accident reports required under Section 41-6a-402 shall contain information to enable the department to determine whether the owner and operator of the automobile involved in the accident were in compliance with the security requirement of Section 41-12a-301.
 - (b) The information may consist of identifying the policy, bond, or certificate's issuer and number.
 - (c) The department may rely upon the accuracy of the information unless it has reason to believe that it is erroneous.
- (2)
- (a) The operator of a motor vehicle involved in an accident shall, unless physically incapable, make an accident report.
 - (b) If the operator is physically incapable, the owner shall, if physically capable, make a report within 10 days of learning of the accident.
 - (c) The operator and owner shall furnish any additional relevant information the department reasonably requests.
- (3) Failure to report an accident as required under Section 41-6a-402 shall be punished as set forth under Subsection 41-6a-402(5).

Amended by Chapter 2, 2005 General Session

41-12a-503 Conditions to license, registration, and privilege renewal.

The license, registration, and nonresident's operating privilege suspended under Subsection 41-12a-501(3) remain suspended and may not be renewed nor may that license or registration be issued until one of the following is satisfied:

- (1) The person deposits or has deposited on his behalf the post-accident security required under Subsection 41-12a-501(1).
- (2) One year has elapsed following the effective date of the suspension and evidence satisfactory to the department has been filed that during that period no action for damages arising out of the accident has been commenced.

- (3) Evidence satisfactory to the department has been filed with it of a release from liability, of a final adjudication of nonliability, or of a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident. In the event of default in the payment of any installment under such an agreement, upon receiving notice of the default, the department shall suspend the license and registration or nonresident's operating privilege of the person defaulting. This license, registration, or nonresident's operating privilege may not be restored until either:
- (a) The person deposits and thereafter maintains security as required under Subsection 41-12a-501(1).
 - (b) One year has elapsed following the date when the security was required and during that period no action upon the agreement has been instituted in a Utah court.

Enacted by Chapter 242, 1985 General Session

41-12a-504 Payments by insurers as evidence to the department.

- (1) The department may accept evidence of a payment to an operator or owner of a motor vehicle involved in an accident by the insurer of any other person involved in the accident on account of damage to property as effective to relieve the operator from the post-accident security and suspension provisions of this chapter in respect to any claim for property damage by the person on whose behalf the payment has been made. A payment to the insurer of an operator or owner under its right of subrogation is the equivalent of a payment to the operator or owner.
- (2) The department may accept evidence of a payment on account of bodily injury to a person involved in an accident by the insurer of any other person involved in the accident as effective to relieve the person to whom the payment is made from the post-accident security and suspension provisions of this chapter in respect to any claim for bodily injury by the person on whose behalf the payment is made.

Enacted by Chapter 242, 1985 General Session

41-12a-505 Effect upon nonresident of use of state highways.

- (1)
 - (a) The use and operation by a nonresident or his agent, or of a resident who has departed Utah, of a motor vehicle on Utah highways is an appointment of the Division of Corporations and Commercial Code as the true and lawful attorney for service of legal process in any action or proceeding against the person arising from the use or operation of a motor vehicle over Utah highways which use or operation results in damages or loss to person or property.
 - (b) The use or operation referenced in Subsection (1) is an agreement that process shall, in any action against the person in which there is such service, be of the same legal force and validity as if served upon him personally in Utah.
- (2)
 - (a) Service of process under Subsection (1) is made by serving a copy upon the Division of Corporations and Commercial Code or by filing a copy in that office with payment of a reasonable fee.
 - (b) The plaintiff shall, within 10 days after service of process, send notice of the process together with plaintiff's affidavit of compliance with this section to the defendant by registered mail at the defendant's last-known address.
- (3)

- (a) The court in which the action is pending may order any continuance necessary to afford the defendant reasonable opportunity to defend the action, but not exceeding 90 days from the date of filing the action in court.
- (b) The reasonable fee paid by the plaintiff to the Division of Corporations and Commercial Code is taxed as costs if the plaintiff prevails.
- (c) The division shall keep a record of all process served showing the day and hour of service.

Amended by Chapter 127, 2006 General Session

41-12a-506 Application to persons without license or registration.

If the operator or the owner of a motor vehicle involved in an accident in Utah has no license or registration in Utah, or is a nonresident, he may not obtain a license or registration in Utah until he has complied with the requirements of this chapter to the extent that would be necessary if, at the time of the accident, he held a Utah license and registration.

Enacted by Chapter 242, 1985 General Session

41-12a-507 Cooperation with other states.

- (1) When a nonresident's operating privilege is suspended under this chapter, the department shall send a certified copy of the record of the action to the official in charge of the issuance of licenses and registration certificates in the state in which the nonresident resides, if the law of the other state provides for action similar to that provided for in Subsection (2).
- (2) Upon receipt of certification from the official of another state that the operating privilege of a Utah resident has been suspended in the other state for failure to deposit post-accident security for the payment of judgments arising out of a motor vehicle accident, under circumstances which would require the deposit in Utah, the department shall suspend the license of the resident if he was the operator, and all of his registrations if he was the owner of a motor vehicle involved in the accident. These suspensions continue until the Utah resident furnishes evidence of his compliance with the law of the other state relating to the deposit of post-accident security.

Enacted by Chapter 242, 1985 General Session

41-12a-508 Form and amount of post-accident security.

- (1) The post-accident security required under Subsection 41-12a-501(1) shall be in the form of cash, cashier's check, a national or Utah bank's clean and irrevocable letter of credit, or the assignment of a bank's certificate of deposit. The department may not require a deposit in excess of the minimum single limit under Subsection 31A-22-304(2). The person depositing security shall specify in a manner specified by the department the persons on whose behalf the deposit is made and may, at any time while the deposit is in the custody of the department or state treasurer, in a manner specified by the department amend the specification of the persons on whose behalf the deposit is made. However, a single deposit of security is applicable only on behalf of persons required to furnish security because of the same accident.
- (2) Subject to Subsection (1), the department may alter the amount of post-accident security required if, in its judgment, the amount previously ordered is excessive or inadequate. If the security originally ordered is determined to be excessive, the excess deposited over the reduced amount ordered shall be returned to the depositor or his personal representative as soon as possible, notwithstanding the provisions of Section 41-12a-509. If the security

originally ordered is determined to be inadequate, the depositor may be required to increase the deposit within 20 days or be subject to the penalties under Subsection 41-12a-501(3).

Amended by Chapter 85, 2001 General Session

41-12a-509 Custody and terms of post-accident security deposits.

Post-accident security deposited in compliance with Subsection 41-12a-501(1) shall be placed by the department in the custody of the state treasurer and may be applied only to the payment of judgments rendered against the persons on whose behalf the deposit was made, for damages arising out of the accident in question in an action at law, begun not later than one year after the date of the accident, or within one year after the date of deposit of any security under Subsection 41-12a-503(3)(a), or to the payment in settlement, agreed to by the depositor, of claims arising out of the accident. The deposit or any balance of it shall be returned to the depositor or his personal representative when evidence satisfactory to the department has been provided that the conditions of either Subsection 41-12a-503(2) or (3) have been satisfied.

Enacted by Chapter 242, 1985 General Session

41-12a-510 Report, findings, action, and security as evidence.

Neither the report required under Section 41-12a-502, nor the department's findings, action, or requirement of post-accident security under this chapter may be referred to in any way, nor be any evidence of negligence or due care of either party, at the trial of any action at law to recover damages.

Enacted by Chapter 242, 1985 General Session

41-12a-511 Failure to satisfy judgment.

- (1) Whenever any person fails within 60 days to satisfy any judgment, it is the duty of the clerk of the court or of the judge of a court which has no clerk in which any such judgment is rendered in Utah, upon the written request of the judgment creditor or his attorney, to forward to the department immediately after the expiration of the 60 days, a certified copy of the judgment.
- (2) The department, upon the receipt of a certified copy of a judgment, shall suspend the license and registration and any nonresident's operating privilege of any person against whom the judgment was rendered, except as provided in Subsection (5) and Section 41-12a-513.
- (3) Except as provided under Subsection (5) and Section 41-12a-513, a license, registration, and nonresident's operating privilege suspended under Subsection (2) remains suspended and may not be renewed nor may that license or registration be thereafter issued in the name of the same person, including a person not previously licensed, unless every such judgment is stayed or satisfied in full within the meaning of Section 41-12a-512, and until the person files proof of owner's or operator's security.
- (4) If the judgment debtor named in any certified copy of a judgment reported to the department is a nonresident, the department shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of which the judgment debtor is a resident.
- (5) If the judgment creditor consents in writing, in a form the department prescribes, that the judgment debtor be allowed license and registration or nonresident's operating privilege, they may be allowed by the department for six months from the date of the consent and thereafter until that consent is revoked in writing, notwithstanding the default in the payment of the

judgment or of any installments thereof prescribed in Section 41-12a-513, if the judgment debtor furnishes proof of owner's security.

Enacted by Chapter 242, 1985 General Session

41-12a-512 When judgments deemed satisfied.

Judgments arising from a single accident which in the aggregate are in excess of the minimum single limit under Subsection 31A-22-304(2) shall be considered satisfied in full, for the purpose of this chapter only, when payments equal to that limit have been credited to the judgment. Payments made by the judgment debtor prior to the judgment, but on the claim which arose out of the bodily injury, death, or property damage caused by a motor vehicle accident shall be credited in reduction of the amount necessary for the judgment to be considered satisfied in full for purposes of this chapter. If multiple judgments against a depositor of post-accident security arise out of the same accident, and in the aggregate the several claims exceed the amount deposited, then the deposit shall be distributed pro rata, based upon each judgment creditor's portion of the total judgments arising from the accident. Any punitive or exemplary damages awarded a judgment creditor may not be considered in determining the claimant's pro rata share.

Enacted by Chapter 242, 1985 General Session

41-12a-513 Payment of judgment in installments.

- (1) A judgment debtor upon due notice to the judgment creditor may apply to the court in which the judgment was rendered for the privilege of paying the judgment in installments. The court, in its discretion and without prejudice to any other legal remedies the judgment creditor may have, may so order and fix the amounts and times of payment of the installments.
- (2) Subject to Subsection (3), the department may not suspend a license, registration, or a nonresident's operating privilege, and it shall restore them if previously suspended for nonpayment of a judgment, if the judgment debtor:
 - (a) obtains orders under Subsection (1) as to all unsatisfied judgments; and
 - (b) provides and maintains proof of owner's or operator's security.
- (3) If the judgment debtor fails to pay any installment as specified by an order under Subsection (1), then upon notice of that default, the department shall suspend the license, registration, or nonresident's operating privilege of the judgment debtor until the judgment is satisfied.

Enacted by Chapter 242, 1985 General Session