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**PERSONAL FINANCIAL RESPONSIBILITY**

**ACT**

1998 GENERAL SESSION

STATE OF UTAH

**Sponsor: Brian R. Allen**

AN ACT RELATING TO INSURANCE CODE; AMENDING MOTOR VEHICLE LIABILITY PROVISIONS; DEFINING CERTAIN TERMS; AND PROHIBITING RECOVERY FROM CERTAIN DAMAGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**31A-22-303**, as last amended by Chapter 375, Laws of Utah 1997

ENACTS:

**31A-22-320**, Utah Code Annotated 1953

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

Section 1. Section **31A-22-303** is amended to read:

**31A-22-303. Motor vehicle liability coverage.**

(1) In addition to complying with the requirements of Chapter 21 and Part II of Chapter 22, a policy of motor vehicle liability coverage under Subsection 31A-22-302(1)(a) shall:

(a) name the motor vehicle owner or operator in whose name the policy was purchased, state that named insured's address, the coverage afforded, the premium charged, the policy period, and the limits of liability;

(b) (i) if it is an owner's policy, designate by appropriate reference all the motor vehicles on which coverage is granted, insure the person named in the policy, insure any other person using any named motor vehicle with the express or implied permission of the named insured, and, except as provided in Subsection (7), insure any person included in Subsection (1)(c) against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of these motor vehicles within the United States and Canada, subject to limits exclusive of interest and

1 costs, for each motor vehicle, in amounts not less than the minimum limits specified under Section  
2 31A-22-304; or

3 (ii) if it is an operator's policy, insure the person named as insured against loss from the  
4 liability imposed upon him by law for damages arising out of the insured's use of any motor  
5 vehicle not owned by him, within the same territorial limits and with the same limits of liability  
6 as in an owner's policy under Subsection (1)(b)(i); and

7 (c) except as provided in Subsection (7), insure persons related to the named insured by  
8 blood, marriage, adoption, or guardianship who are residents of the named insured's household,  
9 including those who usually make their home in the same household but temporarily live  
10 elsewhere, to the same extent as the named insured.

11 (2) A policy containing motor vehicle liability coverage under Subsection  
12 31A-22-302(1)(a) may:

13 (a) provide for the prorating of the insurance under that policy with other valid and  
14 collectible insurance;

15 (b) grant any lawful coverage in addition to the required motor vehicle liability coverage;

16 (c) if the policy is issued to a person other than a motor vehicle business, limit the  
17 coverage afforded to a motor vehicle business or its officers, agents, or employees to the minimum  
18 limits under Section 31A-22-304, and to those instances when there is no other valid and  
19 collectible insurance with at least those limits, whether the other insurance is primary, excess, or  
20 contingent; and

21 (d) if issued to a motor vehicle business, restrict coverage afforded to anyone other than  
22 the motor vehicle business or its officers, agents, or employees to the minimum limits under  
23 Section 31A-22-304, and to those instances when there is no other valid and collectible insurance  
24 with at least those limits, whether the other insurance is primary, excess, or contingent.

25 (3) Motor vehicle liability coverage need not insure any liability:

26 (a) under any workers' compensation law under Title 34A;

27 (b) resulting from bodily injury to or death of an employee of the named insured, other  
28 than a domestic employee, while engaged in the employment of the insured, or while engaged in  
29 the operation, maintenance, or repair of a designated vehicle; [or]

30 (c) resulting from damage to property owned by, rented to, bailed to, or transported by the  
31 insured[-]; or

1 (d) for noneconomic damages as provided in Section 31A-22-320.

2 (4) An insurance carrier providing motor vehicle liability coverage has the right to settle  
3 any claim covered by the policy, and if the settlement is made in good faith, the amount of the  
4 settlement is deductible from the limits of liability specified under Section 31A-22-304.

5 (5) A policy containing motor vehicle liability coverage imposes on the insurer the duty  
6 to defend, in good faith, any person insured under the policy against any claim or suit seeking  
7 damages which would be payable under the policy.

8 (6) (a) If a policy containing motor vehicle liability coverage provides an insurer with the  
9 defense of lack of cooperation on the part of the insured, that defense is not effective against a third  
10 person making a claim against the insurer, unless there was collusion between the third person and  
11 the insured.

12 (b) If the defense of lack of cooperation is not effective against the claimant, after  
13 payment, the insurer is subrogated to the injured person's claim against the insured to the extent  
14 of the payment and is entitled to reimbursement by the insured after the injured third person has  
15 been made whole with respect to the claim against the insured.

16 (7) A policy of motor vehicle liability coverage under Subsection 31A-22-302(1) may  
17 specifically exclude from coverage a person who is a resident of the named insured's household,  
18 including a person who usually makes his home in the same household but temporarily lives  
19 elsewhere, if each person excluded from coverage satisfies the owner's or operator's security  
20 requirement of Section 41-12a-301, independently of the named insured's proof of owner's or  
21 operator's security.

22 Section 2. Section **31A-22-320** is enacted to read:

23 **31A-22-320. Recovery for noneconomic damages -- Limitations -- Exceptions.**

24 (1) As used in this section "noneconomic damages" means physical and emotional pain,  
25 suffering, physical impairment, emotional distress, mental anguish, loss of enjoyment, loss of  
26 companionship, loss of consortium, and other nonpecuniary losses proximately caused by the  
27 operation of a motor vehicle.

28 (2) Except as provided under Subsection (3), a person injured on or after May 4, 1998, as  
29 a proximate cause of the operation of a motor vehicle may not recover noneconomic damages if  
30 the injured person:

31 (a) was the operator of a motor vehicle involved in the accident and the injured person was

1 operating the motor vehicle in violation of Section 53-3-227;

2 (b) was the owner of the motor vehicle involved in the accident and the owner is unable  
3 to produce proof that the operation was covered by owner's or operator's security as required under  
4 Section 41-12a-301;

5 (c) was the operator of a motor vehicle involved in the accident and the injured person is  
6 subsequently convicted of a violation of Section 41-6-44, 41-6-44.6, 41-6-44.10, 76-5-207, or a  
7 local ordinance adopted in compliance with Section 41-6-43, as a result of the operation at the time  
8 of the accident; or

9 (d) was injured as a proximate cause of the injured person's commission of a felony or the  
10 injured person's immediate flight after committing a felony and the person is subsequently  
11 convicted of the felony.

12 (3) This section does not apply to an injured person described under Subsection (2)(a) or  
13 (b) if the injured person is injured by another injured person described under Subsection (2)(c) or  
14 (d).

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**Legislative Review Note**  
**as of 2-4-98 1:32 PM**

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**