

**MOTOR VEHICLE INSURANCE - LIABILITY
ON LOANED VEHICLE**

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: George Mantes

AN ACT RELATING TO INSURANCE; AMENDING CERTAIN MOTOR VEHICLE INSURANCE PROVISIONS; AMENDING CERTAIN DEFINITIONS; AND PROVIDING A COORDINATION CLAUSE.

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

31A-22-314, as enacted by Chapter 316, Laws of Utah 1994

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

(ii) if it is an operator's policy, insure the person named as insured against loss from the

liability imposed upon him by law for damages arising out of the insured's use of any motor vehicle not owned by him, within the same territorial limits and with the same limits of liability as in an owner's policy under Subsection (1)(b)(i); and

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

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

~~[(a)]~~ (i) provide for the prorating of the insurance under that policy with other valid and collectible insurance;

~~[(b)]~~ (ii) grant any lawful coverage in addition to the required motor vehicle liability coverage;

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

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

(b) (i) The liability insurance coverage of a permissive user of a motor vehicle owned by a motor vehicle business shall be primary coverage.

(ii) The liability insurance coverage of a motor vehicle business shall be secondary to the liability insurance coverage of a permissive user as specified under Subsection (2)(b)(i).

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

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

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

(c) resulting from damage to property owned by, rented to, bailed to, or transported by the insured.

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

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

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

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

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

Section 2. Section **31A-22-314** is amended to read:

31A-22-314. Mandatory coverage.

(1) A rental company shall provide its renters with [primary] coverage meeting the

requirements of Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act. [~~All coverage shall include primary defense costs and may not be waived.~~]

(2) The coverage required under Subsection (1) shall be excess or secondary coverage to any other valid and collectible insurance of the renter.

Section 3. Coordination clause.

If this bill and 4th Substitute S.B. 76, Insurance Law Changes, both pass, it is the intent of the Legislature that the amendments to Section 31A-22-314 in the 4th Substitute S.B. 76, Insurance Law Changes, supersede the amendments to Section 31A-22-314 in this bill.