

1 **MOTOR VEHICLE LIABILITY COVERAGE**

2 2000 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Greg J. Curtis**

5 AN ACT RELATING TO MOTOR VEHICLES; AMENDING MOTOR VEHICLE LIABILITY
6 COVERAGE EXCLUSION PROVISIONS.

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

8 AMENDS:

9 **31A-22-303**, as last amended by Chapter 192, Laws of Utah 1999

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

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

12 **31A-22-303. Motor vehicle liability coverage.**

13 (1) (a) In addition to complying with the requirements of Chapter 21 and Part II of Chapter
14 22, a policy of motor vehicle liability coverage under Subsection 31A-22-302(1)(a) shall:

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

18 (ii) (A) if it is an owner's policy, designate by appropriate reference all the motor vehicles
19 on which coverage is granted, insure the person named in the policy, insure any other person using
20 any named motor vehicle with the express or implied permission of the named insured, and, except
21 as provided in Subsection (7), insure any person included in Subsection (1)(a)(iii) against loss from
22 the liability imposed by law for damages arising out of the ownership, maintenance, or use of these
23 motor vehicles within the United States and Canada, subject to limits exclusive of interest and
24 costs, for each motor vehicle, in amounts not less than the minimum limits specified under Section
25 31A-22-304; or

26 (B) if it is an operator's policy, insure the person named as insured against loss from the
27 liability imposed upon him by law for damages arising out of the insured's use of any motor

28 vehicle not owned by him, within the same territorial limits and with the same limits of liability
29 as in an owner's policy under Subsection (1)(ii)(A);

30 (iii) except as provided in Subsection (7), insure persons related to the named insured by
31 blood, marriage, adoption, or guardianship who are residents of the named insured's household,
32 including those who usually make their home in the same household but temporarily live
33 elsewhere, to the same extent as the named insured and the available coverage of the policy may
34 not be reduced to the persons described in this Subsection (1)(a)(iii) because:

35 (A) a permissive user driving a covered motor vehicle is at fault in causing an accident;

36 or

37 (B) the named insured or any of the persons described in this Subsection (1)(a)(iii) driving
38 a covered motor vehicle is at fault in causing an accident; and

39 (iv) cover damages or injury resulting from a covered driver of a motor vehicle who is
40 stricken by an unforeseeable paralysis, seizure, or other unconscious condition and who is not
41 reasonably aware that paralysis, seizure, or other unconscious condition is about to occur to the
42 extent that a person of ordinary prudence would not attempt to continue driving.

43 (b) The driver's liability under Subsection (1)(a)(iv) is limited to the insurance coverage.

44 (2) (a) A policy containing motor vehicle liability coverage under Subsection
45 31A-22-302(1)(a) may:

46 (i) provide for the prorating of the insurance under that policy with other valid and
47 collectible insurance;

48 (ii) grant any lawful coverage in addition to the required motor vehicle liability coverage;

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

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

58 (b) (i) The liability insurance coverage of a permissive user of a motor vehicle owned by

59 a motor vehicle business shall be primary coverage.

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

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

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

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

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

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

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

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

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

83 (7) A policy of motor vehicle liability coverage under Subsection 31A-22-302(1) may
84 specifically exclude from coverage a person who is a resident of the named insured's household,
85 including a person who usually makes his home in the same household but temporarily lives
86 elsewhere, if:

87 (a) at the time of the proposed exclusion, each person excluded from coverage satisfies the
88 owner's or operator's security requirement of Section 41-12a-301, independently of the named
89 insured's proof of owner's or operator's security[-]; **h [and] h**

90 (b) the named insured and the person excluded from coverage each provide written consent
91 to the exclusion h [z] ; AND

91a (c) THE INSURER INCLUDES THE NAME OF EACH PERSON EXCLUDED FROM COVERAGE
IN

91b THE EVIDENCE OF INSURANCE PROVIDED TO AN ADDITIONAL INSURED OR LOSS PAYEE. h

92 (8) A policy of motor vehicle liability coverage may limit coverage to the policy minimum
93 limits under Section 31A-22-304 if the insured motor vehicle is operated by a person who has
94 consumed any alcohol or any illegal drug or illegal substance if the policy or a specifically reduced
95 premium was extended to the insured upon express written declaration executed by the insured that
96 the insured motor vehicle would not be so operated.

Legislative Review Note
as of 2-2-00 5:35 PM

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

Office of Legislative Research and General Counsel