

UNINSURED MOTORIST DATABASE AMENDMENTS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: David H. Steele

AN ACT RELATING TO MOTOR VEHICLES; AMENDING ENFORCEMENT PROVISIONS RELATED TO THE UNINSURED MOTORIST IDENTIFICATION DATABASE PROGRAM; REQUIRING THE REVOCATION OF VEHICLE REGISTRATION IN CERTAIN CIRCUMSTANCES; AMENDING REINSTATEMENT FEES; AMENDING EVIDENCE OF INSURANCE PROVISIONS; AMENDING CERTAIN DATABASE INFORMATION DISCLOSURE PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

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

AMENDS:

41-1a-109, as last amended by Chapter 270, Laws of Utah 1998

41-1a-110, as last amended by Chapters 35 and 270, Laws of Utah 1998

41-1a-120, as enacted by Chapter 59, Laws of Utah 1994

41-1a-1201, as last amended by Chapters 12, 157, 184, 270 and 352, Laws of Utah 1998

41-1a-1220, as enacted by Chapter 35, Laws of Utah 1998

41-12a-303.2, as last amended by Chapter 216, Laws of Utah 1999

41-12a-804, as last amended by Chapter 35, Laws of Utah 1998

41-12a-805, as last amended by Chapter 35, Laws of Utah 1998

41-12a-806, as last amended by Chapter 269, Laws of Utah 1997

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

Section 1. Section **41-1a-109** is amended to read:

41-1a-109. Grounds for division refusing registration or certificate of title.

(1) The division shall refuse registration or issuance of a certificate of title or any transfer of registration upon any of the following grounds:

(a) the application contains any false or fraudulent statement;

(b) the applicant has failed to furnish required information or reasonable additional information requested by the division;

(c) the applicant is not entitled to the issuance of a certificate of title or registration of the vehicle under this chapter;

(d) the division has reasonable grounds to believe that the vehicle is a stolen vehicle or that the granting of registration or the issuance of a certificate of title would constitute a fraud against the rightful owner or other person having a valid lien upon the vehicle;

(e) the registration of the vehicle is suspended or revoked for any reason provided in the motor vehicle laws of this state; or

(f) the required [~~fee has~~] fees have not been paid.

(2) The division shall also refuse registration or any transfer of registration if the vehicle is mechanically unfit or unsafe to be operated or moved upon the highways.

(3) The division shall refuse registration or any transfer of registration of a vehicle upon notification by the Department of Transportation that the vehicle or owner is not in compliance with Title 72, Chapter 9, Motor Carrier Safety Act.

(4) The division may not register a vehicle if the registration of the vehicle is revoked under Subsection 41-1a-110(2) until the applicant provides proof:

(a) of owner's or operator's security in a form allowed under Subsection 41-12a-303.2(4);

(b) of exemption from the owner's or operator's security requirements; or

(c) that the applicant was not an owner of the vehicle at the time of the alleged violation or on the day following the time limit provided after the second notice under Subsection 41-12a-804(2).

Section 2. Section **41-1a-110** is amended to read:

41-1a-110. Authority of division to suspend or revoke registration, certificate of title, license plate, or permit.

(1) Except as provided in Subsections [~~(2)~~] (3) and [~~(3)~~] (4), the division may suspend or revoke a registration, certificate of title, license plate, or permit if:

(a) the division is satisfied that a registration, certificate of title, license plate, or permit was fraudulently procured or erroneously issued;

(b) the division determines that a registered vehicle is mechanically unfit or unsafe to be operated or moved upon the highways;

(c) a registered vehicle has been dismantled;
(d) the division determines that the required fee has not been paid and the fee is not paid upon reasonable notice and demand;

(e) a registration decal, license plate, or permit is knowingly displayed upon a vehicle other than the one for which issued;

~~[(f) the division receives notification by the Department of Public Safety that a person:]~~

~~[(i) has been convicted of operating a registered motor vehicle that does not have owner's or operator's security in effect as required under Section 41-12a-301; or]~~

~~[(ii) is under an administrative action taken by the Department of Public Safety for operating a registered motor vehicle without owner's or operator's security in effect as required under Section 41-12a-301;]~~

~~[(g)] (f) the division determines that the owner has committed any offense under this chapter involving the registration, certificate of title, registration card, license plate, registration decal, or permit; or~~

~~[(h)] (g) the division receives notification by the Department of Transportation that the owner has committed any offence under Title 72, Chapter 9, Motor Carrier Safety Act.~~

(2) The division shall revoke the registration of a vehicle if the division receives notification by the:

(a) Department of Public Safety that a person:

(i) has been convicted of operating a registered motor vehicle in violation of Section 41-12a-301 or 41-12a-303.2; or

(ii) is under an administrative action taken by the Department of Public Safety for operating a registered motor vehicle in violation of Section 41-12a-301; or

(b) designated agent that the owner of a motor vehicle:

(i) has failed to provide satisfactory proof of owner's or operator's security to the designated agent after the second notice provided under Section 41-12a-804; or

(ii) provided a false or fraudulent statement to the designated agent.

~~[(2)] (3) The division may not suspend or revoke the registration of a vessel or outboard~~

motor unless authorized under Section 73-18-7.3.

~~[(3)]~~ (4) The division may not suspend or revoke the registration of an off-highway vehicle unless authorized under Section 41-22-17.

~~[(4)]~~ (5) The division shall charge a registration reinstatement fee under Section 41-1a-1220, if the registration is revoked under Subsection (1)(f).

Section 3. Section **41-1a-120** is amended to read:

41-1a-120. Participation in Uninsured Motorist Identification Database Program.

(1) The division shall provide the Department of Public Safety's designated agent, as defined in Section 41-12a-802, with a record of all current motor vehicle registrations.

(2) The division shall perform the duties specified in:

(a) Title 41, Chapter 12a, Part VIII, Uninsured Motorist Identification Database Program;
and

(b) Sections 41-1a-109 and 41-1a-110.

(3) The division shall cooperate with the Department of Public Safety in making rules and developing procedures to use the Uninsured Motorist Identification Database.

Section 4. Section **41-1a-1201** is amended to read:

41-1a-1201. Disposition of fees.

(1) All fees received and collected under this part shall be transmitted daily to the state treasurer.

(2) Except as provided in Subsections (3), (4), and (6), and Subsections 41-1a-408(7), (8), (13), (14), (15), and (16), and in Section 41-1a-1220, all fees collected under this part shall be deposited in the Transportation Fund.

(3) (a) Funds generated under Subsections 41-1a-1211(1)(a), (7)(a), and (8) and Section 41-1a-1212 may be used by the commission as a dedicated credit to cover the costs incurred in issuing license plates under Part 4, License Plates and Registration Indicia.

(b) Funds collected under Subsections 41-1a-1211(3), (5)(b), and (5)(c), less the actual cost incurred by the division in purchasing decals for special group license plates, shall be deposited in the Transportation Fund.

(c) Fees for statehood centennial license plates shall be collected and deposited in the Transportation Fund, less production and administrative costs incurred by the commission.

(d) Fees for Olympic special group license plates shall be collected and deposited as provided under Section 41-1a-417.

(4) All funds available to the commission for purchase and distribution of license plates and decals are nonlapsing.

(5) Except as provided in Subsection (3) and Section 41-1a-1205, the expenses of the commission in enforcing and administering this part shall be provided for by legislative appropriation from the revenues of the Transportation Fund.

(6) The following portions of the registration fees imposed under Section 41-1a-1206 for each vehicle shall be deposited in the Centennial Highway Fund created under Section 72-2-118:

(a) \$10 of the registration fees imposed under Subsections 41-1a-1206(1)(a), (1)(b), (2), and (5);

(b) \$1 of the registration fees imposed under Subsections 41-1a-1206(1)(c)(i), (1)(c)(ii), and (1)(d)(ii);

(c) \$2 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(ii);

(d) \$3 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(i); and

(e) \$4.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(i).

Section 5. Section **41-1a-1220** is amended to read:

41-1a-1220. Registration reinstatement fee.

(1) At the time application is made for reinstatement or renewal of registration of a motor vehicle after a revocation of the registration under Subsection 41-1a-110~~(1)(f)~~(2), the applicant shall pay a registration reinstatement fee of [~~\$50~~] \$100.

(2) The fee imposed under Subsection (1):

(a) is in addition to any other fee imposed under this chapter[-]; and

(b) shall be deposited in the Uninsured Motorist Identification Restricted Account created in Section 41-12a-806.

(3) The division shall waive the registration reinstatement fee imposed under this section if:

(a) the registration was revoked under Subsection 41-1a-110(2)(b); and

(b) a person had owner's or operator's security in effect for the vehicle at the time of the alleged violation or on the day following the time limit provided after the second notice under Subsection 41-12a-804(2).

Section 6. Section **41-12a-303.2** is amended to read:

41-12a-303.2. Evidence of owner's or operator's security to be carried when operating motor vehicle -- Defense -- Penalties.

(1) As used in this section:

(a) "Division" means the Motor Vehicle Division of the State Tax Commission.

(b) "Registration materials" means the evidences of motor vehicle registration, including all registration cards, license plates, temporary permits, and nonresident temporary permits.

(2) (a) (i) [~~Except as provided in Subsection (2)(a)(ii), a~~] A person operating a motor vehicle shall:

(A) have in the person's immediate possession evidence of owner's or operator's security for the motor vehicle the person is operating; and

(B) display it upon demand of a peace officer.

(ii) A person is exempt from the requirements of Subsection (2)(a)(i) if the person is operating:

(A) a government-owned or leased motor vehicle; or

(B) an employer-owned or leased motor vehicle and is driving it with the employer's permission.

(b) Evidence of owner's or operator's security includes any one of the following:

(i) a copy of the operator's valid:

(A) insurance policy;

(B) insurance policy declaration page;

~~(B)~~ (C) binder notice;

~~(C)~~ (D) renewal notice; or

~~(D)~~ (E) card issued by an insurance company as evidence of insurance;

- (ii) a certificate of insurance issued under Section 41-12a-402;
- (iii) a certified copy of a surety bond issued under Section 41-12a-405;
- (iv) a certificate of the state treasurer issued under Section 41-12a-406;
- (v) a certificate of self-funded coverage issued under Section 41-12a-407; or
- (vi) information that the vehicle or driver is insured from the Uninsured Motorist

Identification Database Program created under Title 41, Chapter 12a, Part 8.

(c) Evidence of owner's or operator's security from the Uninsured Motorist Identification Database Program described under Subsection (2)(b)(vi) supercedes any evidence of owner's or operator's security described under [~~Subsections~~] Subsection (2)(b)(i)(~~C~~)(D) or (~~D~~)(E).

(3) It is an affirmative defense to a charge under this section that the person had owner's or operator's security in effect for the vehicle the person was operating at the time of the person's citation or arrest.

(4) (a) Evidence of owner's or operator's security as defined under Subsection (2)(b) except Subsections (2)(b)(i)(D) and (E) or a [~~letter~~] written statement from an insurance agent or company verifying that the person had the required motor vehicle insurance coverage on the date specified is considered proof of owner's or operator's security for purposes of Subsection (3) and Section 41-12a-804.

(b) The court considering a citation issued under this section shall allow the evidence or [~~letter~~] a written statement under Subsection (4)(a) and a copy of the citation to be faxed or mailed to the clerk of the court to satisfy Subsection (3).

(c) The notice under Section 41-12a-804 shall specify that the [~~letter~~] written statement under Subsection (4)(a) and a copy of the notice shall be faxed or mailed to the designated agent to satisfy the proof of owner's or operator's security required under Section 41-12a-804.

(5) A violation of this section is a class B misdemeanor, and the fine shall be not less than:

(a) \$400 for a first offense; and

(b) \$1,000 for a second and subsequent offense within three years of a previous conviction or bail forfeiture.

(6) Upon receiving notification from a court of a conviction for a violation of this section,

the department:

(a) shall suspend the person's driver license; and
(b) may not renew the person's driver license or issue a driver license to the person until the person gives the department proof of owner's or operator's security.

(i) This proof of owner's or operator's security shall be given by any of the ways required under Section 41-12a-401.

(ii) This proof of owner's or operator's security shall be maintained with the department for a three-year period.

(iii) An insurer that provides a certificate of insurance as provided under Section 41-12a-402 or 41-12a-403 may not terminate the insurance policy unless notice of termination is filed with the department no later than ten days after termination as required under Section 41-12a-404.

(iv) If a person who has canceled the certificate of insurance applies for a license within three years from the date proof of owner's or operator's security was originally required, the department shall refuse the application unless the person reestablishes proof of owner's or operator's security and maintains the proof for the remainder of the three-year period.

Section 7. Section **41-12a-804** is amended to read:

41-12a-804. Notice -- Proof -- Revocation of registration -- False statements -- Penalties -- Exemptions -- Sales tax enforcement.

(1) If the comparison under Section 41-12a-803 shows that a motor vehicle is not insured for three consecutive months, the Motor Vehicle Division ~~may~~ shall direct that the designated agent provide notice to the owner of the motor vehicle that ~~he~~ the owner has ~~45~~ 15 days to provide:

(a) proof of owner's or operator's security in a form allowed under Subsection 41-12a-303.2(4); or

(b) proof of exemption from the owner's or operator's security requirements.

(2) ~~(a)~~ If an owner of a motor vehicle fails to provide satisfactory proof of owner's or operator's security to the designated agent~~[-(i)]~~, the designated agent shall:

(a) provide a second notice to the owner of the motor vehicle that the owner now has 15 days to provide:

(i) proof of owner's or operator's security in a form allowed under Subsection 41-12a-303.2(4); or

(ii) proof of exemption from the owner's or operator's security requirements;

~~[(A)]~~ (b) for each notice provided, indicate information relating to the owner's failure to provide proof of owner's or operator's security in the database; and

~~[(B)]~~ (c) provide this information to state and local law enforcement agencies as requested in accordance with the provisions under Section 41-12a-805[~~;~~ and].

~~[(ii) the]~~ (3) The Motor Vehicle Division [may]:

~~[(A)]~~ (a) shall revoke the registration upon receiving notification under Subsection 41-1a-110~~[(1)(f)]~~(2); and

~~[(B)]~~ (b) [direct the designated agent to] shall provide appropriate notices of the revocation, the legal consequences of operating a vehicle with revoked registration and without owner's or operator's security and instructions on how to get the registration reinstated;

(c) may direct the designated agent to provide the notices under this Subsection (3).

~~[(b)]~~ (4) Any action by the Motor Vehicle Division to revoke the registration of a motor vehicle under this [Subsection (2)] section may be in addition to an action by a law enforcement agency to impose the penalties under Section 41-12a-302 or 41-12a-303.2.

(5) (a) A person may not provide a false or fraudulent statement to the Motor Vehicle Division or designated agent.

(b) In addition to any other penalties, a person who violates Subsection (5)(a) is guilty of a class B misdemeanor.

~~[(3)]~~ (6) The department and the Motor Vehicle Division shall direct the designated agent to exempt from this section a farm truck that:

(a) meets the definition of a farm truck under Section 41-1a-102; and

(b) is registered as a farm truck under Title 41, Chapter 1a, Motor Vehicle Act.

~~[(4)]~~ (7) This part does not affect other actions or penalties that may be taken or imposed for violation of the owner's and operator's security requirements of this chapter.

~~[(5)]~~ (8) If a comparison under Section 41-12a-803 shows that a motor vehicle may not be

in compliance with motor vehicle registration or sales and use tax laws, the Motor Vehicle Division may direct that the designated agent provide notice to the owner of a motor vehicle that information exists which indicates the possible violation.

Section 8. Section **41-12a-805** is amended to read:

41-12a-805. Disclosure of insurance information -- Penalty.

(1) Information in the database established under Section 41-12a-803 provided by a person to the designated agent is considered to be the property of the person providing the information. The information may not be disclosed from the database under Title 63, Chapter 2, Government Records Access and Management Act, or otherwise, except as follows:

(a) for the purpose of investigating, litigating, or enforcing the owner's or operator's security requirement under Section 41-12a-301, the designated agent shall verify insurance information through the state computer network for a state or local government agency or court;

(b) for the purpose of investigating, litigating, or enforcing the owner's or operator's security requirement under Section 41-12a-301, the designated agent shall, upon request, issue to any state or local government agency or court a certificate documenting the insurance [~~status~~] information, according to the database, of a specific individual or motor vehicle for the time period designated by the government agency;

(c) upon request, the department or its designated agent shall disclose whether or not a person is an insured individual and the insurance company name to:

(i) that individual or, if that individual is deceased, any interested person of that individual, as defined in Section 75-1-201;

(ii) the parent or legal guardian of that individual if the individual is an unemancipated minor;

(iii) the legal guardian of that individual if the individual is legally incapacitated;

(iv) a person who has power of attorney from the insured individual;

(v) a person who submits a notarized release from the insured individual dated no more than 90 days before the date the request is made; or

(vi) a person suffering loss or injury in a motor vehicle accident in which the insured individual is involved, but only as part of an accident report as authorized in Section 41-12a-202;

(d) for the purpose of investigating, enforcing, or prosecuting laws or issuing citations by state or local law enforcement agencies related to the:

(i) registration and renewal of registration of a motor vehicle under Title 41, Chapter 1a, Motor Vehicle Act;

(ii) purchase of a motor vehicle under Title 59, Chapter 12, Sales and Use Tax Act; and

(iii) owner's or operator's security requirements under Section 41-12a-301;

(e) upon request of a peace officer acting in an official capacity under the provisions of Subsection (1)(d), the department or the designated agent shall, upon request, disclose relevant information for investigation, enforcement, or prosecution; and

(f) for the purpose of the state auditor, the legislative auditor general, or other auditor of the state conducting audits of the program.

(2) (a) The department may allow the designated agent to prepare and deliver upon request, a certified copy of a report on the insurance information of a person or motor vehicle in accordance with this section. The department may allow the designated agent to charge a fee established by the department under Section 63-38-3.2 for each document authenticated.

(b) Each certified copy of a report on the insurance information furnished in accordance with this section is admissible in any court proceeding in the same manner as the original.

~~[(2)]~~ (3) Any person who knowingly releases or discloses information from the database for a purpose other than those authorized in this section or to a person who is not entitled to it is guilty of a third degree felony.

~~[(3)]~~ (4) An insurer is not liable to any person for complying with Section 31A-22-315 by providing information to the designated agent.

~~[(4)]~~ (5) Neither the state nor the department's designated agent are liable to any person for gathering, managing, or using the information in the database as provided in Section 31A-22-315 and this part.

Section 9. Section **41-12a-806** is amended to read:

41-12a-806. Restricted Account -- Creation -- Funding -- Interest -- Purposes.

(1) There is created within the Transportation Fund a restricted account known as the

"Uninsured Motorist Identification Restricted Account."

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

(a) monies received by the state under Section 41-1a-1218, the uninsured motorist identification fee; ~~[and]~~

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

~~[(b)]~~ (c) appropriations made to the account by the Legislature.

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

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

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

(a) the department to~~[-(a)]~~ fund the contract with the designated agent; ~~[and]~~

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

(c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking and reinstating vehicle registrations under Subsection 41-1a-110(2)(b).

Section 10. **Effective date.**

This act takes effect on July 1, 2000.