

1                   **MOTORBOAT LIABILITY INSURANCE AND UNINSURED**  
2                   **MOTORIST AND MOTORBOAT IDENTIFICATION**  
3                   **DATABASE PROGRAM AMENDMENTS**

4                                   2005 GENERAL SESSION

5                                   STATE OF UTAH

6                                   **Sponsor: Kerry W. Gibson**

---

7  
8                   **LONG TITLE**

9                   **General Description:**

10                   This bill modifies the Insurance Code, the Motor Vehicles Code, the State Boating Act,  
11                   and the Financial Responsibility of Personal Watercraft Owners and Operators Act by  
12                   amending provisions related to motorboat insurance and the Uninsured Motorist and  
13                   Motorboat Identification Database Program.

14                   **Highlighted Provisions:**

15                   This bill:

- 16                   ▶ defines motorboat and includes personal watercraft in the definition of motorboat;  
17                   ▶ requires that each resident owner and certain nonresident owners of a motorboat  
18                   shall maintain owner's or operator's security if the motorboat is operated on the  
19                   waters of the state;  
20                   ▶ provides that it is a class B misdemeanor to operate a motorboat on the waters of the  
21                   state without certain owner's or operator's security being in effect;  
22                   ▶ requires a person operating a motorboat to carry evidence of owner's or operator's  
23                   security for the motorboat and display it upon demand of a peace officer;  
24                   ▶ requires the Division of Parks and Recreation or its authorized agent to revoke a  
25                   motorboat registration if the owner of the motorboat violates certain motorboat  
26                   insurance provisions;  
27                   ▶ includes motorboats in the Uninsured Motorist and Motorboat Identification



28 Database Program;

29       ▶ provides that a motorboat must show on the uninsured database as being uninsured  
30 for two consecutive months before the first warning letter is sent to the motorboat  
31 owner;

32       ▶ requires an owner of a motorboat to pay a \$1 uninsured motorboat identification fee  
33 at the time application is made for registration or renewal of registration;

34       ▶ requires an applicant to pay a registration reinstatement fee of \$100 at the time  
35 application is made for reinstatement or renewal of registration for a motorboat after  
36 a revocation of the registration for certain motorboat insurance violations;

37       ▶ provides certain requirements for a certificate of self-funded coverage for  
38 motorboats;

39       ▶ provides certain requirements for claims adjustment for persons who maintain  
40 motorboat owner's or operator's security by means other than an insurance policy;

41       ▶ provides requirements for a liability insurance policy purchased to satisfy the  
42 owner's or operator's security requirement for motorboats;

43       ▶ provides minimum limits for a motorboat liability coverage policy;

44       ▶ requires each insurer that issues a policy of insurance that includes motorboat  
45 liability coverage to report at least monthly certain policy information to the  
46 Department of Public Safety's designated agent;

47       ▶ provides that the commissioner of the Department of Insurance may assess a fine  
48 against an insurer who does not report insurance information;

49       ▶ repeals the provision that requires an insurer that issues motorboat liability coverage  
50 to report monthly to the Department to Public Safety's designated agent on July 1,  
51 2010;

52       ▶ provides that motorboat insurance information may be disclosed for certain  
53 purposes; and

54       ▶ makes technical changes.

55 **Monies Appropriated in this Bill:**

56       None

57 **Other Special Clauses:**

58       This bill takes effect January 1, 2006.

59 **Utah Code Sections Affected:**

60 AMENDS:

- 61 **31A-22-315**, as last amended by Chapter 90, Laws of Utah 2004
- 62 **31A-22-1501**, as enacted by Chapter 348, Laws of Utah 1997
- 63 **31A-22-1502**, as enacted by Chapter 348, Laws of Utah 1997
- 64 **31A-22-1503**, as enacted by Chapter 348, Laws of Utah 1997
- 65 **31A-22-1504**, as enacted by Chapter 348, Laws of Utah 1997
- 66 **41-1a-120**, as last amended by Chapter 90, Laws of Utah 2004
- 67 **41-12a-303.2**, as last amended by Chapter 298, Laws of Utah 2003
- 68 **41-12a-801**, as enacted by Chapter 59, Laws of Utah 1994
- 69 **41-12a-802**, as last amended by Chapter 36, Laws of Utah 1998
- 70 **41-12a-803**, as last amended by Chapter 32, Laws of Utah 2003
- 71 **41-12a-804**, as last amended by Chapter 345, Laws of Utah 2000
- 72 **41-12a-805**, as last amended by Chapter 32, Laws of Utah 2003
- 73 **63-55-231**, as last amended by Chapter 254, Laws of Utah 2003
- 74 **63-55-241**, as last amended by Chapter 90, Laws of Utah 2004
- 75 **73-18-7.3**, as last amended by Chapter 1, Laws of Utah 1992
- 76 **73-18-13.5**, as enacted by Chapter 348, Laws of Utah 1997
- 77 **73-18c-101**, as enacted by Chapter 348, Laws of Utah 1997
- 78 **73-18c-102**, as enacted by Chapter 348, Laws of Utah 1997
- 79 **73-18c-301**, as enacted by Chapter 348, Laws of Utah 1997
- 80 **73-18c-302**, as enacted by Chapter 348, Laws of Utah 1997
- 81 **73-18c-303**, as enacted by Chapter 348, Laws of Utah 1997
- 82 **73-18c-304**, as last amended by Chapter 298, Laws of Utah 2003
- 83 **73-18c-306**, as enacted by Chapter 348, Laws of Utah 1997
- 84 **73-18c-307**, as last amended by Chapter 90, Laws of Utah 2004

85 ENACTS:

- 86 **31A-22-1505**, Utah Code Annotated 1953
- 87 **41-12a-807**, Utah Code Annotated 1953
- 88 **73-18-7.5**, Utah Code Annotated 1953
- 89 **73-18-7.6**, Utah Code Annotated 1953

90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101  
102  
103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120

---

---

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

Section 1. Section **31A-22-315** is amended to read:

**31A-22-315. Motor vehicle insurance reporting -- Penalty.**

(1) (a) Each insurer that issues a policy that includes motor vehicle liability coverage, uninsured motorist coverage, underinsured motorist coverage, or personal injury coverage under this part shall before the seventh day of each calendar month provide to the Department of Public Safety's designated agent selected in accordance with Title 41, Chapter 12a, Part 8, Uninsured Motorist and Motorboat Identification Database Program, a record of each motor vehicle insurance policy in effect for vehicles registered or garaged in Utah as of the previous month that was issued by the insurer.

(b) This Subsection (1) does not preclude more frequent reporting.

(2) The record shall include:

(a) the name, date of birth, and driver license number, if the insured provides a driver license number to the insurer, of each insured owner or operator, and the address of the named insured;

(b) the make, year, and vehicle identification number of each insured vehicle; and

(c) the policy number, effective date, and expiration date of each policy.

(3) Each insurer shall provide this information [~~on magnetic tape~~] by an electronic means or [~~in~~] by another form the Department of Public Safety's designated agent agrees to accept.

(4) (a) The commissioner may, following procedures set forth in Title 63, Chapter 46b, Administrative Procedures Act, assess a fine against an insurer of up to \$250 for each day the insurer fails to comply with this section.

(b) If an insurer shows that the failure to comply with this section was inadvertent, accidental, or the result of excusable neglect, the commissioner shall excuse the fine.

Section 2. Section **31A-22-1501** is amended to read:

**Part 15. Liability Insurance for Motorboats**

**31A-22-1501. Definitions.**

As used in this part:

(1) "Motorboat" has the same meaning as defined under Section 73-18c-102.

121 ~~[(1)]~~ (2) "Operator" has the same meaning as under Section 73-18c-102.

122 ~~[(2)]~~ (3) "Owner" has the same meaning as under Section 73-18c-102.

123 ~~[(3)]~~ "Personal watercraft" has the same meaning as under Section 73-18-2.]

124 (4) ~~["Personal watercraft"]~~ "Motorboat business" means a ~~[personal watercraft]~~

125 motorboat sales agency, repair shop, service station, storage garage, or public marina.

126 (5) "Rental company" means any person or organization in the business of providing

127 ~~[personal watercraft]~~ motorboats to the public.

128 (6) "Renter" means any person or organization obtaining the use of a ~~[personal~~

129 ~~watercraft]~~ motorboat from a rental company under the terms of a rental agreement.

130 Section 3. Section **31A-22-1502** is amended to read:

131 **31A-22-1502. Motorboat liability coverage.**

132 (1) A liability insurance policy purchased to satisfy the owner's or operator's security  
133 requirement of Section 73-18c-301 shall:

134 (a) name the ~~[personal watercraft]~~ motorboat owner or operator in whose name the  
135 policy was purchased, state that named insured's address, the coverage afforded, the premium  
136 charged, the policy period, and the limits of liability;

137 (b) (i) if it is an owner's policy:

138 (A) designate by appropriate reference each ~~[personal watercraft]~~ motorboat on which  
139 coverage is granted;

140 (B) insure the person named in the policy;

141 (C) insure any other person using any named ~~[personal watercraft]~~ motorboat with the  
142 express or implied permission of the named insured; and

143 (D) except as provided in Subsection (7), insure any person included in Subsection

144 (1)(c) against loss from the liability imposed by law for damages arising out of the ownership,

145 maintenance, or use of the named ~~[personal watercraft]~~ motorboat within the United States and

146 Canada, subject to limits exclusive of interest and costs, for each ~~[personal watercraft]~~

147 motorboat, in amounts not less than the minimum limits specified under Section 31A-22-1503;

148 or

149 (ii) if it is an operator's policy, insure the person named as insured against loss from the  
150 liability imposed upon him or her by law for damages arising out of the insured's use of any

151 ~~[personal watercraft]~~ motorboat not owned by the insured, within the same territorial limits and

152 with the same limits of liability as in an owner's policy under Subsection (1)(b)(i); and

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

157 (2) A liability insurance policy covering [~~personal watercraft~~] a motorboat may:

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

160 (b) grant any lawful coverage in addition to the required [~~personal watercraft~~]  
161 motorboat liability coverage;

162 (c) if the policy is issued to a person other than a [~~personal watercraft~~] motorboat  
163 business, limit the coverage afforded to a [~~personal watercraft~~] motorboat business or its  
164 officers, agents, or employees to the minimum limits under Section 31A-22-1503, and to those  
165 instances when there is no other valid and collectible insurance with at least those limits,  
166 whether the other insurance is primary, excess, or contingent; and

167 (d) if issued to a [~~personal watercraft~~] motorboat business, restrict coverage afforded to  
168 anyone other than the [~~personal watercraft~~] motorboat business or its officers, agents, or  
169 employees to the minimum limits under Section 31A-22-1503, and to those instances when  
170 there is no other valid and collectible insurance with at least those limits, whether the other  
171 insurance is primary, excess, or contingent.

172 (3) [~~Personal watercraft~~] Motorboat liability coverage need not insure any liability:

173 (a) under any workers' compensation law under Title 34A, Utah Labor Code;

174 (b) resulting from bodily injury to or death of an employee of the named insured, other  
175 than a domestic employee, while engaged in the employment of the insured, or while engaged  
176 in the operation, maintenance, or repair of a designated [~~personal watercraft~~] motorboat; or

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

179 (4) An insurance carrier providing [~~personal watercraft~~] motorboat liability coverage  
180 has the right to settle any claim covered by the policy, and if the settlement is made in good  
181 faith, the amount of the settlement is deductible from the limits of liability specified under  
182 Section 31A-22-1503.

183 (5) A policy containing [~~personal watercraft~~] motorboat liability coverage imposes on  
184 the insurer the duty to defend, in good faith, any person insured under the policy against any  
185 claim or suit seeking damages which would be payable under the policy.

186 (6) (a) If a policy containing [~~personal watercraft~~] motorboat liability coverage  
187 provides an insurer with the defense of lack of cooperation on the part of the insured, that  
188 defense is not effective against a third person making a claim against the insurer, unless there  
189 was collusion between the third person and the insured.

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

194 (7) A policy of [~~personal watercraft~~] motorboat liability coverage may specifically  
195 exclude from coverage a person who is a resident of the named insured's household, including  
196 a person who usually makes his or her home in the same household but temporarily lives  
197 elsewhere, if each person excluded from coverage satisfies the owner's or operator's security  
198 requirement of Section [~~73-18c-101~~] 73-18c-301, independently of the named insured's proof  
199 of owner's or operator's security.

200 Section 4. Section **31A-22-1503** is amended to read:

201 **31A-22-1503. Motorboat liability policy minimum limits.**

202 Policies containing [~~personal watercraft~~] motorboat liability coverage may not limit the  
203 insurer's liability under that coverage below the following:

204 (1) (a) \$25,000 because of liability for bodily injury to or death of one person, arising  
205 out of the use of a [~~personal watercraft~~] motorboat in any one accident;

206 (b) subject to the limit for one person in Subsection (1)(a), in the amount of \$50,000  
207 because of liability for bodily injury to or death of two or more persons arising out of the use of  
208 a [~~personal watercraft~~] motorboat in any one accident; and

209 (c) in the amount of \$15,000 because of liability for injury to, or destruction of,  
210 property of others arising out of the use of a [~~personal watercraft~~] motorboat in any one  
211 accident; or

212 (2) \$65,000 in any one accident whether arising from bodily injury to or the death of  
213 others, or from destruction of, or damage to, the property of others.

214 Section 5. Section **31A-22-1504** is amended to read:

215 **31A-22-1504. Mandatory coverage.**

216 (1) A rental company shall provide its renters with primary coverage meeting the  
217 requirements of Title 73, Chapter 18c, Financial Responsibility of [Personal Watercraft]  
218 Motorboat Owners and Operators Act.

219 (2) All coverage shall include primary defense costs and may not be waived.

220 Section 6. Section **31A-22-1505** is enacted to read:

221 **31A-22-1505. Motorboat insurance reporting -- Penalty.**

222 (1) (a) Each insurer that issues a policy that includes motorboat liability coverage under  
223 this part shall before the seventh day of each calendar month provide to the Department of  
224 Public Safety's designated agent selected in accordance with Title 41, Chapter 12a, Part 8,  
225 Uninsured Motorist and Motorboat Identification Database Program, a record of each  
226 motorboat insurance policy in effect for motorboats registered or garaged in Utah as of the  
227 previous month that was issued by the insurer.

228 (b) This Subsection (1) does not preclude more frequent reporting.

229 (2) The record shall include:

230 (a) the name, date of birth, and driver license number, if the insured provides a driver  
231 license number to the insurer, of each insured owner or operator, and the address of the named  
232 insured;

233 (b) the make, year, and hull identification number of each insured motorboat; and

234 (c) the policy number, effective date, and expiration date of each policy.

235 (3) Each insurer shall provide this information by electronic means or by another form  
236 the Department of Public Safety's designated agent agrees to accept.

237 (4) (a) The commissioner may, following procedures set forth in Title 63, Chapter 46b,  
238 Administrative Procedures Act, assess a fine against an insurer of up to \$250 for each day the  
239 insurer fails to comply with this section.

240 (b) If an insurer shows that the failure to comply with this section was inadvertent,  
241 accidental, or the result of excusable neglect, the commissioner shall excuse the fine.

242 Section 7. Section **41-1a-120** is amended to read:

243 **41-1a-120. Participation in Uninsured Motorist and Motorboat Identification**  
244 **Database Program.**



245 (1) The division shall provide the Department of Public Safety's designated agent, as  
246 defined in Section 41-12a-802, with a record of all current motor vehicle and motorboat, as  
247 defined in Section 73-18c-102, registrations.

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

249 (a) Title 41, Chapter 12a, Part 8, Uninsured Motorist and Motorboat Identification  
250 Database Program; and

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

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

255 Section 8. Section **41-12a-303.2** is amended to read:

256 **41-12a-303.2. Evidence of owner's or operator's security to be carried when**  
257 **operating motor vehicle -- Defense -- Penalties.**

258 (1) As used in this section:

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

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

263 (2) (a) (i) A person operating a motor vehicle shall:

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

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

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

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

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

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

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

274 (A) insurance policy;

275 (B) insurance policy declaration page;

- 276 (C) binder notice;
- 277 (D) renewal notice; or
- 278 (E) card issued by an insurance company as evidence of insurance;
- 279 (ii) a certificate of insurance issued under Section 41-12a-402;
- 280 (iii) a certified copy of a surety bond issued under Section 41-12a-405;
- 281 (iv) a certificate of the state treasurer issued under Section 41-12a-406;
- 282 (v) a certificate of self-funded coverage issued under Section 41-12a-407; or
- 283 (vi) information that the vehicle or driver is insured from the Uninsured Motorist and

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

285 (c) Evidence of owner's or operator's security from the Uninsured Motorist  
286 Identification Database Program described under Subsection (2)(b)(vi) supercedes any  
287 evidence of owner's or operator's security described under Subsection (2)(b)(i)(D) or (E).

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

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

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

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

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

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

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

307 (6) Upon receiving notification from a court of a conviction for a violation of this  
308 section, the department:

309 (a) shall suspend the person's driver license; and

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

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

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

316 (iii) An insurer that provides a certificate of insurance as provided under Section  
317 41-12a-402 or 41-12a-403 may not terminate the insurance policy unless notice of termination  
318 is filed with the department no later than ten days after termination as required under Section  
319 41-12a-404.

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

324 Section 9. Section **41-12a-801** is amended to read:

325 **Part 8. Uninsured Motorist and Motorboat Identification Database Program**  
326 **41-12a-801. Title.**

327 This part is known as the "Uninsured Motorist and Motorboat Identification Database  
328 Program."

329 Section 10. Section **41-12a-802** is amended to read:

330 **41-12a-802. Definitions.**

331 As used in this part:

332 (1) [~~"Account"~~] "Accounts" means:

333 (a) the Uninsured Motorist Identification Restricted Account created in Section  
334 41-12a-806[~~;~~]; and

335 (b) the Uninsured Motorboat Identification Restricted Account created in Section  
336 41-12a-807.

337 (2) "Database" means the Uninsured Motorist Identification Database created in

338 Section 41-12a-803.

339 (3) "Designated agent" means the third party the department contracts with under  
340 Section 41-12a-803.

341 (4) "Division" means the Driver License Division created in Section 53-3-103.

342 (5) "Division of Parks and Recreation" means the Division of Parks and Recreation of  
343 the Department of Natural Resources created in Section 63-11-17.1.

344 [~~5~~] (6) "Motor vehicle" has the same meaning as set forth in Section 41-1a-102.

345 [~~6~~] (7) "Motor Vehicle Division" means the Motor Vehicle Division of the State Tax  
346 Commission created in Section 41-1a-106.

347 (8) "Motorboat" has the same meaning as defined in Section 73-18c-102.

348 [~~7~~] (9) "Program" means the Uninsured Motorist and Motorboat Identification  
349 Database Program created in Section 41-12a-803.

350 Section 11. Section **41-12a-803** is amended to read:

351 **41-12a-803. Program creation -- Administration -- Selection of designated agent**  
352 **-- Duties -- Rulemaking -- Audits.**

353 (1) There is created the Uninsured Motorist and Motorboat Identification Database  
354 Program to:

355 (a) establish an Uninsured Motorist and Motorboat Identification Database to verify  
356 compliance with motor vehicle and motorboat owner's or operator's security requirements  
357 under [~~Section~~] Sections 41-12a-301 and 73-18c-301 and other provisions under this part;

358 (b) assist in reducing the number of uninsured motor vehicles and motorboats on the  
359 highways and waters of the state;

360 (c) assist in increasing compliance with motor vehicle and motorboat registration and  
361 sales and use tax laws; and

362 (d) assist in protecting a financial institution's bona fide security interest in a motor  
363 vehicle or motorboat.

364 (2) The program shall be administered by the department with the assistance of the  
365 designated agent and the Motor Vehicle Division.

366 (3) (a) The department shall contract in accordance with Title 63, Chapter 56, Utah  
367 Procurement Code, with a third party to establish and maintain an Uninsured Motorist and  
368 Motorboat Identification Database for the purposes established under this part.

369 (b) The contract may not obligate the department to pay the third party more monies  
370 than are available in the [~~account~~] accounts.

371 (4) (a) The third party under contract under this section is the department's designated  
372 agent, and shall develop and maintain a computer database from the information provided by:

373 (i) insurers under [~~Section~~] Sections 31A-22-315 and 31A-22-1505;

374 (ii) the division under Subsection (6); and

375 (iii) the Motor Vehicle Division under Section 41-1a-120.

376 (b) (i) The database shall be developed and maintained in accordance with guidelines  
377 established by the department so that state and local law enforcement agencies and financial  
378 institutions as defined in Section 7-1-103 can efficiently access the records of the database,  
379 including reports useful for the implementation of the provisions of this part.

380 (ii) (A) The reports shall be in a form and contain information approved by the  
381 department.

382 (B) The reports may be made available through the Internet or through other electronic  
383 medium, if the department determines that sufficient security is provided to ensure compliance  
384 with Section 41-12a-805 regarding limitations on disclosure of information in the database.

385 (5) With information provided by the department and the Motor Vehicle Division, the  
386 designated agent shall, at least monthly:

387 (a) update the database with the motor vehicle and motorboat insurance information  
388 provided by the insurers in accordance with Section 31A-22-315 or 31A-22-1505; and

389 (b) compare all current motor vehicle and motorboat registrations against the database.

390 (6) The division shall provide the designated agent with the name, date of birth,  
391 address, and driver license number of all persons on the driver license database.

392 (7) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
393 department shall make rules and develop procedures in cooperation with the Motor Vehicle  
394 Division to use the database for the purpose of administering and enforcing this part.

395 (8) (a) The designated agent shall archive computer data files at least semiannually for  
396 auditing purposes.

397 (b) The internal audit unit of the tax commission provided under Section 59-1-206  
398 shall audit the program at least annually. The audit shall include verification of:

399 (i) billings made by the designated agent; and

400 (ii) the accuracy of the designated agent's matching of vehicle and motorboat  
401 registration with insurance data.

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

403 **41-12a-804. Notice -- Proof -- Revocation of registration -- False statements --**  
404 **Penalties -- Exemptions -- Sales tax enforcement.**

405 (1) If the comparison under Section 41-12a-803 shows that a motor vehicle is not  
406 insured for three consecutive months or that a motorboat is not insured for two consecutive  
407 months, the Motor Vehicle Division shall direct that the designated agent provide notice to the  
408 owner of the motor vehicle or motorboat that the owner has 15 days to provide:

409 (a) proof of owner's or operator's security in a form allowed under Subsection  
410 41-12a-303.2(4) or 73-18c-304(3); or

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

412 (2) If an owner of a motor vehicle or motorboat fails to provide satisfactory proof of  
413 owner's or operator's security to the designated agent, the designated agent shall:

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

416 (i) proof of owner's or operator's security in a form allowed under Subsection  
417 41-12a-303.2(4) or 73-18c-304(3); or

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

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

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

423 (3) The Motor Vehicle Division:

424 (a) shall revoke the registration upon receiving notification under Subsection  
425 41-1a-110(2) or 73-18-7.3(2); [~~and~~]

426 (b) shall provide appropriate notices of the revocation, the legal consequences of  
427 operating a vehicle or motorboat with revoked registration and without owner's or operator's  
428 security and instructions on how to get the registration reinstated; and

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

430 (4) Any action by the Motor Vehicle Division to revoke the registration of a motor

431 vehicle or motorboat under this section may be in addition to an action by a law enforcement  
432 agency to impose the penalties under Section 41-12a-302 [~~or~~], 41-12a-303.2, 73-18c-302, or  
433 73-18c-304.

434 (5) (a) A person may not provide a false or fraudulent statement to the Motor Vehicle  
435 Division, Division of Parks and Recreation, or designated agent.

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

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

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

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

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

444 (8) If a comparison under Section 41-12a-803 shows that a motor vehicle or motorboat  
445 may not be in compliance with [~~motor vehicle~~] registration or sales and use tax laws, the Motor  
446 Vehicle Division may direct that the designated agent provide notice to the owner of a motor  
447 vehicle or motorboat that information exists which indicates the possible violation.

448 (9) (a) An owner of a motor vehicle or motorboat may designate a motor vehicle or  
449 motorboat as being operated seasonally on the highways or waters of this state by:

450 (i) certifying to the designated agent that the vehicle is used seasonally; and

451 (ii) specifying in the certification under Subsection (9)(a)(i) the months that the motor  
452 vehicle or motorboat will not be operated on highways or waters of this state.

453 (b) The department and the Motor Vehicle Division shall direct the designated agent to  
454 exempt from the notice and revocation requirements seasonally operated motor vehicles or  
455 motorboats certified under Subsection (9)(a) during the months designated under Subsection  
456 (9)(a)(ii).

457 Section 13. Section **41-12a-805** is amended to read:

458 **41-12a-805. Disclosure of insurance information -- Penalty.**

459 (1) Information in the database established under Section 41-12a-803 provided by a  
460 person to the designated agent is considered to be the property of the person providing the  
461 information. The information may not be disclosed from the database under Title 63, Chapter

462 2, Government Records Access and Management Act, or otherwise, except as follows:

463 (a) for the purpose of investigating, litigating, or enforcing the owner's or operator's  
464 security requirement under Section 41-12a-301 or 73-18c-301, the designated agent shall verify  
465 insurance information through the state computer network for a state or local government  
466 agency or court;

467 (b) for the purpose of investigating, litigating, or enforcing the owner's or operator's  
468 security requirement under Section 41-12a-301 or 73-18c-301, the designated agent shall, upon  
469 request, issue to any state or local government agency or court a certificate documenting the  
470 insurance information, according to the database, of a specific individual [or], motor vehicle, or  
471 motorboat for the time period designated by the government agency;

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

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

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

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

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

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

482 (vi) a person suffering loss or injury in a motor vehicle or motorboat accident in which  
483 the insured individual is involved, but only as part of an accident report as authorized in  
484 Section 41-12a-202 or 73-18-13.5;

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

487 (i) registration and renewal of registration of a motor vehicle under Title 41, Chapter  
488 1a, Motor Vehicle Act, or a motorboat under Title 73, Chapter 18, State Boating Act;

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

491 (iii) owner's or operator's security requirements under Section 41-12a-301 or  
492 73-18c-301;



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

496 (f) for the purpose of the state auditor, the legislative auditor general, or other auditor  
497 of the state conducting audits of the program; and

498 (g) upon request of a financial institution as defined under Section 7-1-103 for the  
499 purpose of protecting the financial institution's bona fide security interest in a motor vehicle or  
500 motorboat.

501 (2) (a) The department may allow the designated agent to prepare and deliver upon  
502 request, a report on the insurance information of a person [~~or~~], motor vehicle, or motorboat in  
503 accordance with this section.

504 (b) The report may be in the form of:

505 (i) a certified copy that is considered admissible in any court proceeding in the same  
506 manner as the original; or

507 (ii) information accessible through the Internet or through other electronic medium if  
508 the department determines that sufficient security is provided to ensure compliance with this  
509 section.

510 (c) The department may allow the designated agent to charge a fee established by the  
511 department under Section 63-38-3.2 for each:

512 (i) document authenticated, including each certified copy;

513 (ii) record accessed by the Internet or by other electronic medium; and

514 (iii) record provided to a financial institution under Subsection (1)(g).

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

518 (4) An insurer is not liable to any person for complying with Section 31A-22-315 or  
519 31A-22-1505 by providing information to the designated agent.

520 (5) Neither the state nor the department's designated agent are liable to any person for  
521 gathering, managing, or using the information in the database as provided in Section  
522 31A-22-315 or 31A-22-1505 and this part.

523 Section 14. Section **41-12a-807** is enacted to read:

524 41-12a-807. Uninsured Motorboat Identification Restricted Account -- Creation --  
525 **Funding -- Interest -- Purposes.**

526 (1) There is created within the Transportation Fund a restricted account known as the  
527 "Uninsured Motorboat Identification Restricted Account."

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

529 (a) monies received by the state under Section 73-18-7.5, the uninsured motorboat  
530 identification fee;

531 (b) monies received by the state under Section 73-18-7.6 from motorboat registration  
532 reinstatements; and

533 (c) appropriations made to the account by the Legislature.

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

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

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

537 (a) the department to fund the contract with the designated agent;

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

540 (c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking  
541 and reinstating motorboat registrations under Subsection 73-18-7.3(2)(b).

542 Section 15. Section **63-55-231** is amended to read:

543 **63-55-231. Repeal dates, Title 31A.**

544 (1) Section 31A-2-208.5, Comparison tables, is repealed July 1, 2005.

545 (2) Section 31A-2-217, Coordination with other states, is repealed July 1, 2013.

546 (3) Section 31A-3-104, Electronic commerce dedicated fees, is repealed July 1, 2006.

547 (4) Section 31A-22-315, Motor vehicle insurance reporting, is repealed July 1, 2010.

548 (5) Section 31A-22-625, Catastrophic coverage of mental health conditions, is repealed  
549 July 1, 2011.

550 (6) Section 31A-22-1505, Motorboat insurance reporting, is repealed July 1, 2010.

551 ~~[(6)]~~ (7) Title 31A, Chapter 31, Insurance Fraud Act, is repealed July 1, 2007.

552 Section 16. Section **63-55-241** is amended to read:

553 **63-55-241. Repeal dates, Title 41.**

554 The following provisions of Title 41 are repealed on the following dates:

555 (1) Title 41, Chapter 12a, Part 8, Uninsured Motorist and Motorboat Identification  
556 Database Program, is repealed July 1, 2010.

557 (2) The HOV lane exception for clean fuel special group license plate vehicles in  
558 Subsection 41-6-53.5(5) is repealed December 31, 2005.

559 Section 17. Section **73-18-7.3** is amended to read:

560 **73-18-7.3. Suspension or revocation of a registration or certificate of title.**

561 (1) The division or its authorized agent may suspend or revoke the registration or  
562 certificate of title of a motorboat, sailboat, or outboard motor if:

563 [~~(1)~~] (a) the division or its authorized agent determines that the registration or  
564 certificate of title was fraudulently or erroneously issued;

565 [~~(2)~~] (b) the division or its authorized agent determines that a registered motorboat or  
566 sailboat is mechanically unfit or unseaworthy for operation on the waters of this state;

567 [~~(3)~~] (c) a registered motorboat or sailboat has been dismantled or wrecked so that it  
568 loses its character as a vessel;

569 [~~(4)~~] (d) the division or its authorized agent determines that the required registration or  
570 titling fee has not been paid or is not paid upon reasonable notice and demand;

571 [~~(5)~~] (e) a registration decal or number is knowingly displayed upon a motorboat or  
572 sailboat other than the one for which the decal or number was issued;

573 [~~(6)~~] (f) the division or its authorized agent determines that the owner has committed  
574 any offense under this chapter or Title 41, Chapter 1a, Part 5, Titling Requirement, involving  
575 the registration or certificate of title of a motorboat, sailboat, or outboard motor; or

576 [~~(7)~~] (g) the division or authorized agent is so authorized under any other provision of  
577 law.

578 (2) The division or its authorized agent shall revoke the registration of a motorboat as  
579 defined in Section 73-18c-102 if the division or its authorized agent receives notification by  
580 the:

581 (a) Department of Natural Resources that a person:

582 (i) has been convicted of operating a registered motorboat in violation of Section  
583 73-18c-302 or 73-18c-304; or

584 (ii) is under an administrative action taken by the Department of Natural Resources for  
585 operating a registered motorboat in violation of Section 73-18-7; or

586 (b) designated agent as defined in Section 41-12a-802 that the owner of a motorboat:  
587 (i) has failed to provide satisfactory proof of owner's or operator's security to the  
588 designated agent after the second notice provided under Section 41-12a-804; or  
589 (ii) provided a false or fraudulent statement to the designated agent.

590 Section 18. Section **73-18-7.5** is enacted to read:

591 **73-18-7.5. Uninsured motorboat identification fee for tracking motorboat**  
592 **insurance -- Exemption -- Deposit.**

593 (1) (a) At the time application is made for registration or renewal of registration of a  
594 motorboat as defined in Section 73-18c-102 under this chapter, the applicant shall pay an  
595 uninsured motorboat identification fee of \$1 on each motorboat.

596 (b) A motorboat as defined in Section 73-18c-102 that is exempt from registration  
597 under Section 73-18-9 is also exempt from the motorboat identification fee required by this  
598 section.

599 (2) The revenue generated under this section shall be deposited in the Uninsured  
600 Motorboat Identification Restricted Account created in Section 41-12a-807.

601 Section 19. Section **73-18-7.6** is enacted to read:

602 **73-18-7.6. Registration reinstatement fee.**

603 (1) At the time application is made for reinstatement or renewal of registration of a  
604 motorboat as defined in Section 73-18c-102 after a revocation of the registration under  
605 Subsection 73-18-7.3(2) or Section 73-18-13.5, the applicant shall pay a registration  
606 reinstatement fee of \$100.

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

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

609 (b) shall be deposited in the Uninsured Motorboat Identification Restricted Account  
610 created in Section 41-12a-807.

611 (3) The division or its authorized agent shall waive the registration reinstatement fee  
612 imposed under this section if:

613 (a) the registration was revoked under Subsection 73-18-7.3(2)(b); and

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

617 Section 20. Section **73-18-13.5** is amended to read:

618 **73-18-13.5. Motorboat accidents -- Investigation and report of operator security**  
619 **-- Agency action if no security -- Surrender of registration materials.**

620 (1) Upon request of a peace officer investigating an accident involving a [~~personal~~  
621 ~~watercraft~~] motorboat as defined in Section 73-18c-102, the operator of the [~~personal~~  
622 ~~watercraft~~] motorboat shall provide evidence of the owner's or operator's security required  
623 under Section 73-18c-301.

624 (2) The peace officer shall record on a form approved by the division:

625 (a) the information provided by the operator;

626 (b) whether the operator provided insufficient or no information; and

627 (c) whether the peace officer finds reasonable cause to believe that any information  
628 given is not correct.

629 (3) The peace officer shall deposit all completed forms with the peace officer's agency,  
630 which shall forward the forms to the division no later than ten days after receipt.

631 (4) (a) The division shall revoke the registration of a [~~personal watercraft~~] motorboat as  
632 defined in Section 73-18c-102 involved in an accident unless the owner or operator can  
633 demonstrate to the division compliance with the owner's or operator's security requirement of  
634 Section 73-18c-301 at the time of the accident.

635 (b) Any registration revoked may not be renewed for a period of one year following the  
636 date of revocation.

637 (5) A person may appeal a revocation issued under Subsection (4) in accordance with  
638 procedures established by the board by rule that are consistent with Title 63, Chapter 46b,  
639 Administrative Procedures Act.

640 (6) (a) Any person whose registration is revoked under Subsection (4) shall return the  
641 registration card and decals for the [~~personal watercraft~~] motorboat to the division.

642 (b) If the person fails to return the registration materials as required, they shall be  
643 confiscated under Section 73-18-13.6.

644 (7) The board may make rules for the enforcement of this section.

645 (8) In this section, "evidence of owner's or operator's security" includes any one of the  
646 following:

647 (a) the operator's:

- 648 (i) insurance policy;
- 649 (ii) binder notice;
- 650 (iii) renewal notice; or
- 651 (iv) card issued by an insurance company as evidence of insurance;
- 652 (b) a copy of a surety bond, certified by the surety, which conforms to Section
- 653 73-18c-102;
- 654 (c) a certificate of the state treasurer issued under Section 73-18c-305; or
- 655 (d) a certificate of self-funded coverage issued under Section 73-18c-306.

656 Section 21. Section **73-18c-101** is amended to read:

657 **CHAPTER 18c. FINANCIAL RESPONSIBILITY OF MOTORBOAT**  
 658 **OWNERS AND OPERATORS ACT**

659 **73-18c-101. Title.**

660 This chapter [~~may be cited~~] is known as the "Financial Responsibility of [~~Personal~~  
661 ~~Watercraft~~] Motorboat Owners and Operators Act."

662 Section 22. Section **73-18c-102** is amended to read:

663 **73-18c-102. Definitions.**

664 As used in this chapter:

- 665 (1) "Board" means the Board of Parks and Recreation.
- 666 (2) "Division" means the Division of Parks and Recreation.
- 667 (3) "Judgment" means any judgment that is final by:
- 668 (a) expiration without appeal of the time within which an appeal might have been
- 669 perfected; or

670 (b) final affirmation on appeal, rendered by a court of competent jurisdiction of any  
671 state or of the United States, upon a cause of action for damages:

672 (i) arising out of the ownership, maintenance, or use of any personal watercraft,  
673 including damages for care and loss of services because of bodily injury to or death of any  
674 person, or because of injury to or destruction of property including the loss of use of the  
675 property; or

676 (ii) on a settlement agreement.

677 (4) (a) "Motorboat" has the same meaning as defined in Section 73-18-2.

678 (b) "Motorboat" includes personal watercraft.

679 (c) "Motorboat" does not include a boat with a motor with a manufacturer listed  
680 horsepower of 50 horsepower or less.

681 [~~(4)~~] (5) "Nonresident" means any person who is not a resident of Utah.

682 [~~(5)~~] (6) "Operator" means the person who is in control of a [~~personal watercraft~~]  
683 motorboat while it is in use.

684 [~~(6)~~] (7) (a) "Owner" means a person, other than a lien holder, holding a proprietary  
685 interest in or the title to a [~~personal watercraft~~] motorboat.

686 (b) "Owner" includes a person entitled to the use or possession of a [~~personal~~  
687 watercraft] motorboat subject to an interest by another person, reserved or created by  
688 agreement and securing payment or performance of an obligation.

689 (c) "Owner" does not include a lessee under a lease not intended as security.

690 [~~(7)~~] (8) "Owner's or operator's security," "owner's security," or "operator's security"  
691 means any of the following:

692 (a) an insurance policy or combination of policies conforming to Sections  
693 31A-22-1502 and 31A-22-1503, which is issued by an insurer authorized to do business in  
694 Utah;

695 (b) a surety bond issued by an insurer authorized to do a surety business in Utah in  
696 which the surety is subject to the minimum coverage limits and other requirements of policies  
697 conforming to Sections 31A-22-1502 and 31A-22-1503, which names the division as a creditor  
698 under the bond for the use of persons entitled to the proceeds of the bond;

699 (c) a deposit with the state treasurer of cash or securities complying with Section  
700 73-18c-305;

701 (d) a certificate of self-funded coverage issued under Section 73-18c-306; or

702 (e) a policy conforming to Sections 31A-22-1502 and 31A-22-1503 issued by the Risk  
703 Management Fund created in Section 63A-4-201.

704 [~~(8)~~] (9) "Personal watercraft" has the same meaning as provided in Section 73-18-2.

705 [~~(9)~~] (10) "Registration" means the issuance of the registration cards and decals issued  
706 under the laws of Utah pertaining to the registration of [~~personal watercraft~~] motorboats.

707 [~~(10)~~] (11) "Registration materials" means the evidences of [~~personal watercraft~~]  
708 motorboat registration, including all registration cards and decals.

709 [~~(11)~~] (12) "Self-insurance" has the same meaning as provided in Section 31A-1-301.

710           ~~[(12)]~~ (13) "Waters of the state" means any waters within the territorial limits of this  
711 state.

712           Section 23. Section **73-18c-301** is amended to read:

713           **73-18c-301. Requirement of owner's or operator's security.**

714           (1) Each resident owner of a ~~[personal watercraft]~~ motorboat shall maintain owner's or  
715 operator's security in effect at any time that the ~~[personal watercraft]~~ motorboat is operated on  
716 waters of the state.

717           (2) Each nonresident owner of a ~~[personal watercraft]~~ motorboat that has been  
718 physically present in this state for 90 or fewer days during the preceding 365 days shall  
719 maintain the type and amount of owner's or operator's security required in his or her place of  
720 residence at any time the ~~[personal watercraft]~~ motorboat is operated on waters of the state.

721           (3) Each nonresident owner of a ~~[personal watercraft]~~ motorboat that has been  
722 physically present in this state more than 90 days during the preceding 365 days shall thereafter  
723 maintain owner's or operator's security in effect at any time the ~~[personal watercraft]~~ motorboat  
724 is operated on waters of the state.

725           (4) The state and each of its political subdivisions and their respective departments,  
726 institutions, or agencies shall maintain owner's or operator's security in effect at any time their  
727 ~~[personal watercraft]~~ motorboats are operated on waters of the state.

728           (5) Any other state is considered a nonresident owner of its ~~[personal watercraft]~~  
729 motorboat and is subject to Subsection (2) or (3).

730           (6) The United States, any political subdivision of it, or any of its agencies may  
731 maintain owner's or operator's security in effect for their ~~[personal watercraft]~~ motorboats.

732           Section 24. Section **73-18c-302** is amended to read:

733           **73-18c-302. Operating a motorboat without owner's or operator's security --**  
734 **Penalty.**

735           (1) Any owner of a ~~[personal watercraft]~~ motorboat on which owner's or operator's  
736 security is required under Section 73-18c-301, who operates the ~~[personal watercraft]~~  
737 motorboat or permits it to be operated on waters of the state without owner's security being in  
738 effect is guilty of a class B misdemeanor.

739           (2) Any other person who operates a ~~[personal watercraft]~~ motorboat upon waters of  
740 the state with the knowledge that the owner does not have owner's security in effect for the



741 ~~[personal watercraft]~~ motorboat is also guilty of a class B misdemeanor, unless that person has  
742 in effect owner's or operator's security on a Utah-registered ~~[personal watercraft]~~ motorboat or  
743 its equivalent that covers the operation, by him or her, of the ~~[personal watercraft]~~ motorboat in  
744 question.

745 Section 25. Section **73-18c-303** is amended to read:

746 **73-18c-303. Condition to obtaining registration.**

747 The owner of a ~~[personal watercraft]~~ motorboat required to maintain owner's security  
748 under Section 73-18c-301 shall be required to swear or affirm, in writing, that he or she has  
749 owner's security in effect at the time of registering the ~~[personal watercraft]~~ motorboat.

750 Section 26. Section **73-18c-304** is amended to read:

751 **73-18c-304. Evidence of owner's or operator's security to be carried when**  
752 **operating a motorboat -- Defense -- Penalties.**

753 (1) (a) (i) Except as provided in Subsection (1)(a)(ii), a person operating a ~~[personal~~  
754 ~~watercraft]~~ motorboat shall:

755 (A) have in the person's immediate possession evidence of owner's or operator's  
756 security for the ~~[personal watercraft]~~ motorboat the person is operating; and

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

758 (ii) A person operating a government-owned or government-leased ~~[personal~~  
759 ~~watercraft]~~ motorboat is exempt from the requirements of Subsection (1)(a)(i).

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

761 (i) the operator's:

762 (A) insurance policy;

763 (B) binder notice;

764 (C) renewal notice; or

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

766 (ii) a copy of a surety bond, certified by the surety, which conforms to Section  
767 73-18c-102;

768 (iii) a certificate of the state treasurer issued under Section 73-18c-305; or

769 (iv) a certificate of self-funded coverage issued under Section 73-18c-306.

770 (2) It is an affirmative defense to a charge under this section that the person had

771 owner's or operator's security in effect for the ~~[personal watercraft]~~ motorboat the person was

772 operating at the time of the person's citation or arrest.

773 (3) (a) A letter from an insurance producer or company verifying that the person had  
774 the required liability insurance coverage on the date specified is considered proof of owner's or  
775 operator's security for purposes of Subsection (2).

776 (b) The court considering a citation issued under this section shall allow the letter  
777 under Subsection (3)(a) and a copy of the citation to be faxed or mailed to the clerk of the court  
778 to satisfy Subsection (2).

779 (4) A violation of this section is a class B misdemeanor.

780 (5) If a person is convicted of a violation of this section and if the person is the owner  
781 of a [~~personal watercraft~~] motorboat, the court shall:

782 (a) require the person to surrender the person's registration materials to the court; and

783 (b) forward the registration materials, together with a copy of the conviction, to the  
784 division.

785 (6) (a) Upon receiving notification from a court of a conviction for a violation of this  
786 section, the division shall revoke the person's [~~personal watercraft~~] motorboat registration.

787 (b) Any registration revoked may not be renewed for a period of one year following the  
788 date of revocation.

789 Section 27. Section **73-18c-306** is amended to read:

790 **73-18c-306. Certificate of self-funded coverage as proof of owner's or operator's**  
791 **security.**

792 (1) The division may, upon the application of any person, issue a certificate of  
793 self-funded coverage when it is satisfied that the person has:

794 (a) more than 24 [~~personal watercraft~~] motorboats; and

795 (b) deposits, in a form approved by the division, securities in an amount of \$200,000  
796 plus \$100 for each [~~personal watercraft~~] motorboat up to and including 1,000 [~~personal~~  
797 ~~watercraft~~] motorboats and \$50 for each [~~personal watercraft~~] motorboat over 1,000 [~~personal~~  
798 ~~watercraft~~] motorboats.

799 (2) Persons holding a certificate of self-funded coverage under this chapter shall pay  
800 benefits to persons injured from the self-funded person's operation, maintenance, and use of  
801 [~~personal watercraft~~] motorboats as would an insurer issuing a policy to the self-funded person  
802 containing the coverages under Sections 31A-22-1502 and 31A-22-1503.

803 (3) In accordance with Title 63, Chapter 46b, Administrative Procedures Act, the  
804 division may, upon reasonable grounds, cancel the certificate. Failure to pay any judgment up  
805 to the limit under Subsection 31A-22-1503(2) within 30 days after the judgment is final is a  
806 reasonable ground to cancel the certificate.

807 (4) Any government entity with self-funded coverage for government-owned [~~personal~~  
808 ~~watercraft~~] motorboats under Title 63, Chapter [~~30, Utah~~] 30d, Governmental Immunity Act of  
809 Utah, meets the requirements of this section.

810 Section 28. Section **73-18c-307** is amended to read:

811 **73-18c-307. Claims adjustment by persons with owner's or operator's security**  
812 **other than insurance.**

813 (1) An owner or operator of a [~~personal watercraft~~] motorboat who maintains owner's  
814 or operator's security by a means other than an insurance policy under Section 73-18c-102,  
815 shall refer all bodily injury claims against the owner's or operator's security to an independent  
816 adjuster licensed under Title 31A, Chapter 26, Insurance Adjusters, or to an attorney.

817 (2) Unless otherwise provided by contract, any [~~personal watercraft~~] motorboat claim  
818 adjustment expense incurred by a person maintaining owner's or operator's security by a means  
819 other than an insurance policy under Section 73-18c-102, shall be paid by the person who  
820 maintains this type of owner's or operator's security.

821 (3) Owners and operators of [~~personal watercraft~~] motorboats maintaining owner's or  
822 operator's security by a means other than an insurance policy under Section 73-18c-102 are  
823 subject to the claim adjustment provisions of Title 31A, Chapter 26, Part 3, Claim Practices, in  
824 connection with claims against persons which arise out of the ownership, maintenance, or use  
825 of a [~~personal watercraft~~] motorboat.

826 Section 29. **Effective date.**

827 This bill takes effect January 1, 2006.

---

---

**Legislative Review Note**

**as of 1-31-05 1:06 PM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

---

---

**Fiscal Note**  
**Bill Number HB0261**

**Motorboat Liability Insurance and Uninsured Motorist  
and Motorboat Identification Database Program**

08-Feb-05  
10:01 AM

---

---

**State Impact**

This bill will generate \$112,000 annually to a new fund: Transportation Fund -Uninsured Motorist Identification Restricted. Because of the mid-year implementation, first year revenues will be about \$94,000.

	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2006</u> <u>Revenue</u>	<u>FY 2007</u> <u>Revenue</u>
Restricted Funds	\$0	\$0	\$94,000	\$112,000
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>\$94,000</b>	<b>\$112,000</b>

---

---

**Individual and Business Impact**

Motorboat owners will be required to pay a \$1 uninsured motorboat identification fee when they register or renew their registration starting in calendar year 2006. There is also a \$100 registration reinstatement fee in the case of revocations for lack of insurance.

---

---

**Office of the Legislative Fiscal Analyst**