

**DRIVER LICENSE - APPLICATION OF  
MINOR**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: David Litvack**

Senate Sponsor: \_\_\_\_\_

---

---

**LONG TITLE**

**General Description:**

This bill modifies the Utah Human Services Code **↗**, Insurance Code, **↖** and the Driver Licensing Act by amending provisions relating to driver license applications by certain minors.

**Highlighted Provisions:**

This bill:

**↗ ▶ clarifies that a guardianship between a foster parent and a minor who is in the custody of the Division of Child and Family Services is included in the relationships that are covered under certain insurance policies;** **↖**

▶ provides that if a minor applicant for a temporary learner permit, practice permit, or provisional driver license is in the legal custody of the Division of Child and Family Services, a parent or responsible adult who is willing to assume certain obligations and liability requirements may sign the application;

**↗ ▶ limits the liability of foster parents who sign the application for or furnish a motor vehicle to a foster child in their care;** **↖**

▶ provides that the Office of Licensing within the Department of Human Services shall require a child placing agency that provides foster home services to notify a foster parent of the liability requirements when signing as a responsible adult for a foster child to receive a driver license;

▶ grants the Office of Licensing rulemaking authority to establish procedures for a



23 child placing agency to provide the notifications; and

24       ▶ makes technical changes.

25 **Monies Appropriated in this Bill:**

26       None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 **AMENDS:**

30a **Ĥ→ 31A-22-303, as last amended by Chapter 295, Laws of Utah 2005 ←Ĥ**

31 **53-3-211, as last amended by Chapter 201, Laws of Utah 2006**

31a **Ĥ→ 53-3-212, as renumbered and amended by Chapter 234, Laws of Utah 1993 ←Ĥ**

32 **ENACTS:**

33 **62A-2-108.5, Utah Code Annotated 1953**

34

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

35a **Ĥ→ Section 1. Section 31A-22-303 is amended to read:**

35b **31A-22-303. Motor vehicle liability coverage.**

35c **(1) (a) In addition to complying with the requirements of Chapter 21, Insurance Contracts in**  
35d **General, and Chapter 22, Part 2, Liability Insurance in General, a policy of motor vehicle liability**  
35e **coverage under Subsection 31A-22-302(1)(a) shall:**

35f **(i) name the motor vehicle owner or operator in whose name the policy was purchased, state**  
35g **that named insured's address, the coverage afforded, the premium charged, the policy period, and the**  
35h **limits of liability;**

35i **(ii) (A) if it is an owner's policy, designate by appropriate reference all the motor vehicles on**  
35j **which coverage is granted, insure the person named in the policy, insure any other person using any**  
35k **named motor vehicle with the express or implied permission of the named insured, and, except as**  
35l **provided in Subsection (7), insure any person included in Subsection (1)(a)(iii) against loss from the**  
35m **liability imposed by law for damages arising out of the ownership, maintenance, or use of these motor**  
35n **vehicles within the United States and Canada, subject to limits exclusive of interest and costs, for each**  
35o **motor vehicle, in amounts not less than the minimum limits specified under Section 31A-22-304; or**

35p **(B) if it is an operator's policy, insure the person named as insured against loss from the**  
35q **liability imposed upon him by law for damages arising out of the insured's use of any motor vehicle not**  
35r **owned by him, within the same territorial limits and with the same limits of liability as in an owner's**  
35s **policy under Subsection (1)(a)(ii)(A);**

35t **(iii) except as provided in Subsection (7), insure persons related to the named insured by**  
35u **blood, marriage, adoption, or guardianship who are residents of the named insured's household,**  
35v **including those who usually make their home in the same household but temporarily live elsewhere, to**  
35w **the same extent as the named insured;**

35x **(iv) where a claim is brought by the named insured or a person described in Subsection**  
35y **(1)(a)(iii), the available coverage of the policy may not be reduced or stepped-down because:**

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

**35aa**            **↵(B) the named insured or any of the persons described in this Subsection (1)(a)(iii) driving**  
**35ab**            **a covered motor vehicle is at fault in causing an accident; and**

**35ac**            **(v) cover damages or injury resulting from a covered driver of a motor vehicle who is stricken**  
**35ad**            **by an unforeseeable paralysis, seizure, or other unconscious condition and who is not reasonably**  
**35ae**            **aware that paralysis, seizure, or other unconscious condition is about to occur to the extent that a**  
**35af**            **person of ordinary prudence would not attempt to continue driving.**

**35ag**            **(b) The driver's liability under Subsection (1)(a)(v) is limited to the insurance coverage.**

**35ah**            **(c) "Guardianship" under Subsection (1)(a)(iii) includes the relationship between a**  
**35ai**            **foster parent and a minor who is in the legal custody of the Division of Child and Family**  
**35aj**            **Services if:**

**35ak**            **(A) the minor resides in a foster home, as defined under Section 62A-2-101, with a**  
**35al**            **foster parent who is the named insured; and**

**35am1**            **(B) the foster parent has signed to be jointly**  
**35am**            **and severally liable for compensatory damages of the minor's operation of a motor vehicle in**  
**35an**            **accordance with Section 53-3-211.**

**35ao**            **(2) (a) A policy containing motor vehicle liability coverage under Subsection 31A-22-302(1)(a)**  
**35ap**            **may:**

**35aq**            **(i) provide for the prorating of the insurance under that policy with other valid and collectible**  
**35ar**            **insurance;**

**35as**            **(ii) grant any lawful coverage in addition to the required motor vehicle liability coverage;**

**35at**            **(iii) if the policy is issued to a person other than a motor vehicle business, limit the coverage**  
**35au**            **afforded to a motor vehicle business or its officers, agents, or employees to the minimum limits under**  
**35av**            **Section 31A-22-304, and to those instances when there is no other valid and collectible insurance with**  
**35aw**            **at least those limits, whether the other insurance is primary, excess, or contingent; and**

**35ax**            **(iv) if issued to a motor vehicle business, restrict coverage afforded to anyone other than the**  
**35ay**            **motor vehicle business or its officers, agents, or employees to the minimum limits under Section**  
**35az**            **31A-22-304, and to those instances when there is no other valid and collectible insurance with at least**  
**35ba**            **those limits, whether the other insurance is primary, excess, or contingent.**

**35bb**            **(b) (i) The liability insurance coverage of a permissive user of a motor vehicle owned by a**  
**35bc**            **motor vehicle business shall be primary coverage.**

**35bd**            **(ii) The liability insurance coverage of a motor vehicle business shall be secondary to the**  
**35be**            **liability insurance coverage of a permissive user as specified under Subsection (2)(b)(i).**

**35bf**            **(3) Motor vehicle liability coverage need not insure any liability:**

**35bg**            **(a) under any workers' compensation law under Title 34A, Utah Labor Code;**

**35bh**            **(b) resulting from bodily injury to or death of an employee of the named insured, other than a**  
**35bi**            **domestic employee, while engaged in the employment of the insured, or while engaged in the**  
**35bj**            **operation, maintenance, or repair of a designated vehicle; or ↵**

35bk            **Ĥ→** (c) resulting from damage to property owned by, rented to, bailed to, or transported by the  
35bl insured.

35bm            (4) An insurance carrier providing motor vehicle liability coverage has the right to settle any  
35bn claim covered by the policy, and if the settlement is made in good faith, the amount of the settlement is  
35bo deductible from the limits of liability specified under Section 31A-22-304.

35bp            (5) A policy containing motor vehicle liability coverage imposes on the insurer the duty to  
35bq defend, in good faith, any person insured under the policy against any claim or suit seeking damages  
35br which would be payable under the policy.

35bs            (6) (a) If a policy containing motor vehicle liability coverage provides an insurer with the  
35bt defense of lack of cooperation on the part of the insured, that defense is not effective against a third  
35bu person making a claim against the insurer, unless there was collusion between the third person and the  
35bv insured.

35bw            (b) If the defense of lack of cooperation is not effective against the claimant, after payment, the  
35bx insurer is subrogated to the injured person's claim against the insured to the extent of the payment and  
35by is entitled to reimbursement by the insured after the injured third person has been made whole with  
35bz respect to the claim against the insured.

35ca            (7) A policy of motor vehicle liability coverage under Subsection 31A-22-302(1) may  
35cb specifically exclude from coverage a person who is a resident of the named insured's household,  
35cc including a person who usually makes his home in the same household but temporarily lives elsewhere,  
35cd if:

35ce            (a) at the time of the proposed exclusion, each person excluded from coverage satisfies the  
35cf owner's or operator's security requirement of Section 41-12a-301, independently of the named  
35cg insured's proof of owner's or operator's security;

35ch            (b) the named insured and the person excluded from coverage each provide written consent to  
35ci the exclusion; and

35cj            (c) the insurer includes the name of each person excluded from coverage in the evidence of  
35ck insurance provided to an additional insured or loss payee.

35cl            (8) A policy of motor vehicle liability coverage may limit coverage to the policy minimum  
35cm limits under Section 31A-22-304 if the insured motor vehicle is operated by a person who has  
35cn consumed any alcohol or any illegal drug or illegal substance if the policy or a specifically reduced  
35co premium was extended to the insured upon express written declaration executed by the insured that  
35cp the insured motor vehicle would not be so operated.

35cq            (9) (a) When a claim is brought exclusively by a named insured or a person described in  
35cr Subsection (1)(a)(iii) and asserted exclusively against a named insured or an individual described in  
35cs Subsection (1)(a)(iii), the claimant may elect to resolve the claim:

35ct            (i) by submitting the claim to binding arbitration; or

35cu            (ii) through litigation. **←Ĥ**

35cv            **↔(b)** Once the claimant has elected to commence litigation under Subsection (9)(a)(ii), the  
35cw            claimant may not elect to resolve the claim through binding arbitration under this section without  
35cx            the written consent of both parties and the defendant's liability insurer.

35cy            (c) (i) Unless otherwise agreed on in writing by the parties, a claim that is submitted to binding  
35cz            arbitration under Subsection (9)(a)(i) shall be resolved by a panel of three arbitrators.

35da            (ii) Unless otherwise agreed on in writing by the parties, each party shall select an arbitrator.  
35db            The arbitrators selected by the parties shall select a third arbitrator.

35dc            (d) Unless otherwise agreed on in writing by the parties, each party will pay the fees and costs  
35dd            of the arbitrator that party selects. Both parties shall share equally the fees and costs of the third  
35de            arbitrator.

35df            (e) Except as otherwise provided in this section, an arbitration procedure conducted under this  
35dg            section shall be governed by Title 78, Chapter 31a, Utah Uniform Arbitration Act, unless otherwise  
35dh            agreed on in writing by the parties.

35di            (f) (i) Discovery shall be conducted in accordance with Rules 26b through 36, Utah Rules of  
35dj            Civil Procedure.

35dk            (ii) All issues of discovery shall be resolved by the arbitration panel.

35dl            (g) A written decision of two of the three arbitrators shall constitute a final decision of the  
35dm            arbitration panel.

35dn            (h) Prior to the rendering of the arbitration award:

35do            (i) the existence of a liability insurance policy may be disclosed to the arbitration panel; and

35dp            (ii) the amount of all applicable liability insurance policy limits may not be disclosed to the  
35dq            arbitration panel.

35dr            (i) The amount of the arbitration award may not exceed the liability limits of all the  
35ds            defendant's applicable liability insurance policies, including applicable liability umbrella policies. If  
35dt            the initial arbitration award exceeds the liability limits of all applicable liability insurance policies, the  
35du            arbitration award shall be reduced to an amount equal to the liability limits of all applicable liability  
35dv            insurance policies.

35dw            (j) The arbitration award is the final resolution of all claims between the parties unless the  
35dx            award was procured by corruption, fraud, or other undue means.

35dy            (k) If the arbitration panel finds that the action was not brought, pursued, or defended in good  
35dz            faith, the arbitration panel may award reasonable fees and costs against the party that failed to bring,  
35ea            pursue, or defend the claim in good faith.

35eb            (l) Nothing in this section is intended to limit any claim under any other portion of an  
35ec            applicable insurance policy.

35ed            (10) An at-fault driver or an insurer issuing a policy of insurance under this part that is  
35ee            covering an at-fault driver may not reduce compensation to an injured party based on the  
35ef            injured party not being covered by a policy of insurance that provides personal injury protection ↔

35eg coverage under Sections 31A-22-306 through 31A-22-309. ~~←H~~

36 Section ~~H→~~ [†] 2 ~~←H~~ . Section 53-3-211 is amended to read:

37 **53-3-211. Application of minors -- Liability of person signing application --**  
 38 **Cancellation of cosigning adult's liability -- Behind-the-wheel driving certification.**

39 (1) As used in this section, "minor" means any person younger than 18 years of age  
 40 who is not married or has not been emancipated by adjudication.

41 (2) (a) The application of a minor for a temporary learner permit, practice permit,  
 42 learner permit, or provisional license shall be signed by the parent or guardian of the applicant.

43 (b) If the minor applicant does not have a parent or guardian or is in the legal custody  
 44 of the Division of Child and Family Services, then a parent or responsible adult who is willing  
 45 to assume the obligation imposed under this chapter may sign the application.

46 (3) (a) Except as provided in Subsection (4), the liability of a minor for civil  
 47 compensatory damages caused when operating a motor vehicle upon a highway is imputed to  
 48 the person who has signed the application of the minor under Subsection (2).

49 (b) The person who has signed the application under Subsection (2) is jointly and  
 50 severally liable with the minor as provided in Subsections (3)(a) and (c).

51 (c) The liability imposed under Subsections (3)(a) and (b) is limited to the policy  
 52 minimum limits established in Section 31A-22-304.

53 (d) The liability provisions in this Subsection (3) are in addition to the liability  
 54 provisions in Section 53-3-212.

55 (4) ~~H→~~ (a) ~~←H~~ If owner's or operator's security covering the minor's operation of the motor  
 55a vehicle

56 is in effect in amounts as required under Section 31A-22-304, the person who signed the  
 57 minor's application under Subsection (2) is not subject to the liability imposed under  
 58 Subsection (3).

58a ~~H→~~ (b) If a foster parent signs the application under Subsection (2) for a minor  
 58b who is in the legal custody of the Division of Child and Family Services and who resides  
 58c with the foster parent, the foster parent's liability may not exceed the minimum liability  
 58d insurance policy limits established under Section 31A-22-304 or the limits of the foster  
 58e parent's liability insurance policy established under Section 31A-22-302, whichever are  
 58f greater. ~~←H~~

(5) (a) A person who has signed the application of a minor under Subsection (2) may file with the division a verified written request that the permit or license of the minor be canceled.

(b) The division shall then cancel the permit or license of the minor, and the person who signed the application of the minor under Subsection (2) is relieved from the liability imposed under Subsection (3) or the minor operating a motor vehicle subsequent to the cancellation.

(6) (a) The division upon receipt of satisfactory evidence of the death of the person who signed the application of a minor under Subsection (2) shall cancel the permit or license and may not issue a new permit or license until a new application, signed and verified, is made under this chapter.

(b) This Subsection (6) does not apply to an application of a person who is no longer a minor.

(7) (a) In addition to the liability assumed under this section, the person who signs the application of a minor for a provisional license must certify that the minor applicant, under the authority of a permit issued under this chapter, has completed at least 40 hours of driving a motor vehicle, of which at least ten hours shall be during night hours after sunset.

(b) The hours of driving a motor vehicle required under Subsection (7)(a) may include:

(i) hours completed in a driver education course as required under Subsection 53-3-505.5(1); and

(ii) up to five hours completed by driving simulation practice on a fully interactive driving simulation device at the substitution rate provided under Subsection 53-3-505.5(2)(b).

**H→ Section 3. Section 53-3-212 is amended to read:**

**53-3-212. Owner giving permission and minor liable for damages caused by minor driving a motor vehicle.**

**(1) ~~[The]~~ Except as provided in Subsection (3), the owner of a motor vehicle causing or knowingly permitting a person younger than 18 years of age to drive the motor vehicle on a highway, or a person who gives or furnishes a motor vehicle to the minor, are each jointly and severally liable with the minor for any damages caused by the negligence of the minor in driving the motor vehicle.**

**(2) This liability provision is in addition to the liability provisions in Section 53-3-211.**

**(3) If a foster parent signs the application under Subsection (2) for a minor who is in the legal custody of the Division of Child and Family Services and who resides with the foster parent, the foster parent's liability may not exceed the minimum liability insurance policy limits established under Section 31A-22-304 or the limits of the foster parent's liability insurance policy established under Section 31A-22-302, whichever are greater.** ←H



81 Section ~~H~~→ [2] ~~4~~ ←~~H~~ . Section 62A-2-108.5 is enacted to read:

82 **62A-2-108.5. Notification requirement for child placing agencies that provide**  
83 **foster home services.**

84 (1) The office shall require a child placing agency that provides foster home services to  
85 notify a foster parent that if the foster parent signs as the responsible adult for a foster child to  
86 receive a driver license under Section 53-3-211, the foster parent is jointly and severally liable  
87 with the minor for civil compensatory damages caused by the minor when operating a motor  
88 vehicle upon a highway as provided under Subsections 53-3-211(2) and (4).

89 (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

90 office may makes rules establishing the procedures for a child placing agency to provide the  
91 notification required under this section.

---

**Legislative Review Note**  
**as of 12-4-06 9:19 AM**

**Office of Legislative Research and General Counsel**

---

---

**H.B. 213 - Driver License - Application of Minor**

**Fiscal Note**

2007 General Session

State of Utah

---

---

**State Impact**

Enactment of this bill will not require additional appropriations.

---

**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

---

*1/9/2007, 9:24:36 AM, Lead Analyst: Ricks, G.*

**Office of the Legislative Fiscal Analyst**