

MOTOR VEHICLE INSURANCE AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sheldon L. Killpack

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill modifies the Insurance Code by amending provisions relating to motor vehicle insurance.

Highlighted Provisions:

This bill:

~~H→ [→ provides that a motor vehicle liability coverage policy shall insure a covered person's use of a rental motor vehicle with the same coverage and policy limits as that of all other covered motor vehicles;] ←H~~

▶ provides that a rental company's owner's or operator's security applies only when there is no other valid or collectible insurance;

▶ provides that when there is no other valid or collectible insurance for a rental vehicle, a rental company is required to meet the minimum requirements for owner's or operator's security;

▶ clarifies that rental company owner's or operator's security requirements do not expand or reduce liability or impair the rental company's right to indemnity, contribution, or both; and

▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:



28 None

29 Utah Code Sections Affected:

30 AMENDS:

31 ~~H~~→ [31A-22-303, as last amended by Chapter 295, Laws of Utah 2005] ←~~H~~

32 31A-22-314, as last amended by Chapters 325 and 329, Laws of Utah 1998



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

35 ~~H~~→ [Section 1. Section 31A-22-303 is amended to read:

36 ~~31A-22-303. Motor vehicle liability coverage.~~

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

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

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

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

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

59 ~~¶~~ (iv) where a claim is brought by the named insured or a person described in Subsection
 60 (1)(a)(iii), the available coverage of the policy may not be reduced or stepped-down because:
 61 ~~—— (A) a permissive user driving a covered motor vehicle is at fault in causing an accident;~~
 62 ~~or~~
 63 ~~—— (B) the named insured or any of the persons described in this Subsection (1)(a)(iii)~~
 64 ~~driving a covered motor vehicle is at fault in causing an accident; [and]~~
 65 ~~—— (v) cover damages or injury resulting from a covered driver of a motor vehicle who is~~
 66 ~~stricken by an unforeseeable paralysis, seizure, or other unconscious condition and who is not~~
 67 ~~reasonably aware that paralysis, seizure, or other unconscious condition is about to occur to the~~
 68 ~~extent that a person of ordinary prudence would not attempt to continue driving[.]; and~~
 69 ~~—— (vi) insure the person named as insured and a person related to the named insured as~~
 70 ~~described under Subsection (1)(a)(iii) against loss from the liability imposed by law for~~
 71 ~~damages arising out of a covered driver's use of a rental motor vehicle with the same coverage~~
 72 ~~and limits under the policy as that of all other motor vehicles for which coverage is granted.~~
 73 ~~—— (b) The driver's liability under Subsection (1)(a)(v) is limited to the insurance~~
 74 ~~coverage.~~
 75 ~~—— (2) (a) A policy containing motor vehicle liability coverage under Subsection~~
 76 ~~31A-22-302(1)(a) may:~~
 77 ~~—— (i) provide for the prorating of the insurance under that policy with other valid and~~
 78 ~~collectible insurance;~~
 79 ~~—— (ii) grant any lawful coverage in addition to the required motor vehicle liability~~
 80 ~~coverage;~~
 81 ~~—— (iii) if the policy is issued to a person other than a motor vehicle business, limit the~~
 82 ~~coverage afforded to a motor vehicle business or its officers, agents, or employees to the~~
 83 ~~minimum limits under Section 31A-22-304, and to those instances when there is no other valid~~
 84 ~~and collectible insurance with at least those limits, whether the other insurance is primary,~~
 85 ~~excess, or contingent; and~~
 86 ~~—— (iv) if issued to a motor vehicle business, restrict coverage afforded to anyone other~~
 87 ~~than the motor vehicle business or its officers, agents, or employees to the minimum limits~~
 88 ~~under Section 31A-22-304, and to those instances when there is no other valid and collectible~~
 89 ~~insurance with at least those limits, whether the other insurance is primary, excess, or~~ ¶

90 ~~H→~~ contingent.

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

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

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

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

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

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

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

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

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

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

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

120 ~~———— (a) at the time of the proposed exclusion, each person excluded from coverage satisfies ←H~~

121 ~~It~~→ the owner's or operator's security requirement of Section 41-12a-301, independently of the
 122 named insured's proof of owner's or operator's security;

123 ~~—— (b) the named insured and the person excluded from coverage each provide written~~
 124 ~~consent to the exclusion; and~~

125 ~~—— (c) the insurer includes the name of each person excluded from coverage in the~~
 126 ~~evidence of insurance provided to an additional insured or loss payee.~~

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

132 ~~—— (9) (a) When a claim is brought exclusively by a named insured or a person described~~
 133 ~~in Subsection (1)(a)(iii) and asserted exclusively against a named insured or an individual~~
 134 ~~described in Subsection (1)(a)(iii), the claimant may elect to resolve the claim:~~

135 ~~—— (i) by submitting the claim to binding arbitration; or~~
 136 ~~—— (ii) through litigation.~~

137 ~~—— (b) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii),~~
 138 ~~the claimant may not elect to resolve the claim through binding arbitration under this section~~
 139 ~~without the written consent of both parties and the defendant's liability insurer.~~

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

142 ~~—— (ii) Unless otherwise agreed on in writing by the parties, each party shall select an~~
 143 ~~arbitrator. The arbitrators selected by the parties shall select a third arbitrator.~~

144 ~~—— (d) Unless otherwise agreed on in writing by the parties, each party will pay the fees~~
 145 ~~and costs of the arbitrator that party selects. Both parties shall share equally the fees and costs~~
 146 ~~of the third arbitrator.~~

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

150 ~~—— (f) (i) Discovery shall be conducted in accordance with Rules 26b through 36, Utah~~
 151 ~~Rules of Civil Procedure. ←It~~

152 ~~(ii) All issues of discovery shall be resolved by the arbitration panel.~~
 153 ~~—— (g) A written decision of two of the three arbitrators shall constitute a final decision of~~
 154 ~~the arbitration panel.~~
 155 ~~—— (h) Prior to the rendering of the arbitration award:~~
 156 ~~—— (i) the existence of a liability insurance policy may be disclosed to the arbitration~~
 157 ~~panel; and~~
 158 ~~—— (ii) the amount of all applicable liability insurance policy limits may not be disclosed to~~
 159 ~~the arbitration panel.~~
 160 ~~—— (i) The amount of the arbitration award may not exceed the liability limits of all the~~
 161 ~~defendant's applicable liability insurance policies, including applicable liability umbrella~~
 162 ~~policies. If the initial arbitration award exceeds the liability limits of all applicable liability~~
 163 ~~insurance policies, the arbitration award shall be reduced to an amount equal to the liability~~
 164 ~~limits of all applicable liability insurance policies.~~
 165 ~~—— (j) The arbitration award is the final resolution of all claims between the parties unless~~
 166 ~~the award was procured by corruption, fraud, or other undue means.~~
 167 ~~—— (k) If the arbitration panel finds that the action was not brought, pursued, or defended~~
 168 ~~in good faith, the arbitration panel may award reasonable fees and costs against the party that~~
 169 ~~failed to bring, pursue, or defend the claim in good faith.~~
 170 ~~—— (l) Nothing in this section is intended to limit any claim under any other portion of an~~
 171 ~~applicable insurance policy.~~
 172 ~~—— (10) An at-fault driver or an insurer issuing a policy of insurance under this part that is~~
 173 ~~covering an at-fault driver may not reduce compensation to an injured party based on the~~
 174 ~~injured party not being covered by a policy of insurance that provides personal injury~~
 175 ~~protection coverage under Sections 31A-22-306 through 31A-22-309.] ←H~~

176 Section H→ [2] 1 ←H . Section 31A-22-314 is amended to read:
 177 **31A-22-314. Mandatory coverage.**

178 (1) As used in this section, "owner's or operator's security" has the same meaning as
 179 defined in Section 41-12a-103.

180 [(H)] (2) (a) A rental company shall [provide its renters with primary coverage]
 181 maintain owner's or operator's security meeting the requirements of Title 41, Chapter 12a,
 182 Financial Responsibility of Motor Vehicle Owners and Operators Act[, unless there is other

183 ~~valid or collectible insurance coverage].~~

184 ~~[(2) All coverage shall include primary defense costs and may not be waived.]~~

185 (b) Owner's or operator's security maintained by a rental company under Subsection
186 (2)(a) applies only when there is no other valid or collectible insurance or other form of
187 security meeting the minimum requirements of Title 41, Chapter 12a, Financial Responsibility
188 of Motor Vehicle Owners and Operators Act.

189 (c) If other valid or collectible insurance or other form of security satisfies the
190 minimum requirements of Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle
191 Owners and Operators Act, on a loss involving a rental vehicle, a rental company's obligation
192 under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators
193 Act, is satisfied.

194 (d) When no other valid or collectible insurance or other form of security exists
195 meeting the minimum requirements of Title 41, Chapter 12a, Financial Responsibility of Motor
196 Vehicle Owners and Operators Act, a rental company shall provide security meeting the
197 minimum requirements of Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle
198 Owners and Operators Act, for losses involving a rental vehicle.

199 (3) Nothing in this section shall be construed to expand or reduce the liability of a
200 rental company or to impair a rental company's right to indemnity, contribution, or both.

Legislative Review Note
as of 1-30-07 10:55 AM

Office of Legislative Research and General Counsel