

1                                   **DRIVER LICENSE - APPLICATION OF**  
2                                   **MINOR AMENDMENTS**

3                                   2008 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: David Litvack**

6                                   Senate Sponsor: D. Chris Buttars

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8 **LONG TITLE**

9 **General Description:**

10                   This bill modifies the Utah Human Services Code and the Driver Licensing Act by  
11 amending provisions relating to driver license applications by certain minors.

12 **Highlighted Provisions:**

13                   This bill:

- 14                   ▶ clarifies that a guardianship relationship between a foster parent and a minor who is  
15 in the legal custody of the Division of Child and Family Services is included in the  
16 relationships that are covered under certain insurance policies;
- 17                   ▶ provides that if a minor is in the legal custody of the Division of Child and Family  
18 Services, a parent or responsible adult who is willing to assume certain obligations  
19 and liability requirements may sign the minor's application for a learner permit or  
20 provisional driver license;
- 21                   ▶ limits the liability of a foster parent who signs an application for a foster child's  
22 driver license;
- 23                   ▶ provides that the Office of Licensing within the Department of Human Services shall  
24 require a child placing agency that provides foster home services to notify a foster  
25 parent of the liability requirements when signing as a responsible adult for a foster  
26 child to receive a learner permit or provisional driver license;
- 27                   ▶ grants the Office of Licensing rulemaking authority to establish procedures for a  
28 child placing agency to provide the notifications;
- 29                   ▶ authorizes the Division of Child and Family Services to reimburse a foster parent for

30 providing motor vehicle insurance coverage for a foster child who is in the legal custody of the  
31 division;

32 ▶ grants the Division of Child and Family Services rulemaking authority to establish a  
33 procedure, eligibility requirements, and a method for determining the amount for  
34 motor vehicle insurance coverage reimbursements;

35 ▶ requires the Division of Child and Family Services to report to the Transportation  
36 Interim Committee; and

37 ▶ makes technical changes.

38 **Monies Appropriated in this Bill:**

39 None

40 **Other Special Clauses:**

41 None

42 **Utah Code Sections Affected:**

43 AMENDS:

44 **31A-22-303**, as last amended by Laws of Utah 2005, Chapter 295

45 **53-3-211**, as last amended by Laws of Utah 2006, Chapter 201

46 ENACTS:

47 **62A-2-108.5**, Utah Code Annotated 1953

48 **62A-4a-121**, Utah Code Annotated 1953



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

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

52 **31A-22-303. Motor vehicle liability coverage.**

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

56 (i) name the motor vehicle owner or operator in whose name the policy was purchased,  
57 state that named insured's address, the coverage afforded, the premium charged, the policy

58 period, and the limits of liability;

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

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

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

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

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

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

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

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

86 (c) (i) "Guardianship" under Subsection (1)(a)(iii) includes the relationship between a  
87 foster parent and a minor who is in the legal custody of the Division of Child and Family  
88 Services if:

89 (A) the minor resides in a foster home, as defined in Section 62A-2-101, with a foster  
90 parent who is the named insured; and

91 (B) the foster parent has signed to be jointly and severally liable for compensatory  
92 damages caused by the minor's operation of a motor vehicle in accordance with Section  
93 53-3-211.

94 (ii) "Guardianship" as defined under this Subsection (1)(c) ceases to exist when a minor  
95 described in Subsection (1)(c)(i)(A) is no longer a resident of the named insured's household.

96 (2) (a) A policy containing motor vehicle liability coverage under Subsection  
97 31A-22-302(1)(a) may:

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

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

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

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

112 (b) (i) The liability insurance coverage of a permissive user of a motor vehicle owned by  
113 a motor vehicle business shall be primary coverage.

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

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

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

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

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

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

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

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

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

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

141 (a) at the time of the proposed exclusion, each person excluded from coverage satisfies

142 the owner's or operator's security requirement of Section 41-12a-301, independently of the  
143 named insured's proof of owner's or operator's security;

144 (b) the named insured and the person excluded from coverage each provide written  
145 consent to the exclusion; and

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

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

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

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

157 (ii) through litigation.

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

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

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

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

168 (e) Except as otherwise provided in this section, an arbitration procedure conducted  
169 under this section shall be governed by Title 78, Chapter 31a, Utah Uniform Arbitration Act,

170 unless otherwise agreed on in writing by the parties.

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

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

174 (g) A written decision of two of the three arbitrators shall constitute a final decision of  
175 the arbitration panel.

176 (h) Prior to the rendering of the arbitration award:

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

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

181 (i) The amount of the arbitration award may not exceed the liability limits of all the  
182 defendant's applicable liability insurance policies, including applicable liability umbrella policies.  
183 If the initial arbitration award exceeds the liability limits of all applicable liability insurance  
184 policies, the arbitration award shall be reduced to an amount equal to the liability limits of all  
185 applicable liability insurance policies.

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

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

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

193 (10) An at-fault driver or an insurer issuing a policy of insurance under this part that is  
194 covering an at-fault driver may not reduce compensation to an injured party based on the  
195 injured party not being covered by a policy of insurance that provides personal injury protection  
196 coverage under Sections 31A-22-306 through 31A-22-309.

197 Section 2. Section **53-3-211** is amended to read:

198           **53-3-211. Application of minors -- Liability of person signing application --**  
199 **Cancellation of cosigning adult's liability -- Behind-the-wheel driving certification.**

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

202           (2) (a) The application of a minor for a [~~temporary learner permit, practice permit,~~]  
203 learner permit[;] or provisional license shall be signed by the parent or guardian of the applicant.

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

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

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

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

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

216           (4) (a) If owner's or operator's security covering the minor's operation of the motor  
217 vehicle is in effect in amounts as required under Section 31A-22-304, the person who signed the  
218 minor's application under Subsection (2) is not subject to the liability imposed under Subsection  
219 (3).

220           (b) Notwithstanding the requirement under Subsection (3), if a foster parent signs an  
221 application under Subsection (2) for a minor who is in the legal custody of the Division of Child  
222 and Family Services and who resides with the foster parent, the foster parent's liability may not  
223 exceed the greater of:

224           (i) minimum liability insurance policy limits established under Section 31A-22-304; or

225           (ii) the policy limits of the foster parent's liability insurance policy issued in accordance



226 with Section 31A-22-302 that were in effect at the time damages were caused by the minor's  
227 operation of a motor vehicle.

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

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

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

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

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

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

245 (i) hours completed in a driver education course as required under Subsection  
246 53-3-505.5(1); and

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

249 Section 3. Section **62A-2-108.5** is enacted to read:

250 **62A-2-108.5. Notification requirement for child placing agencies that provide**  
251 **foster home services -- Rulemaking authority.**

252 (1) The office shall require a child placing agency that provides foster home services to  
253 notify a foster parent that if the foster parent signs as the responsible adult for a foster child to

254 receive a driver license under Section 53-3-211:

255 (a) the foster parent is jointly and severally liable with the minor for civil compensatory  
256 damages caused by the minor when operating a motor vehicle upon a highway as provided  
257 under Subsections 53-3-211(2) and (4); and

258 (b) the foster parent may file with the Driver License Division a verified written request  
259 that the learner permit or driver license be canceled in accordance with Section 53-3-211 if the  
260 foster child no longer resides with the foster parent.

261 (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
262 office may make rules establishing the procedures for a child placing agency to provide the  
263 notification required under this section.

264 Section 4. Section **62A-4a-121** is enacted to read:

265 **62A-4a-121. Reimbursement of motor vehicle insurance coverage for foster child.**

266 (1) Within the amounts appropriated to the division for the purposes described in this  
267 section, the division may reimburse a foster parent for providing owner's or operator's security  
268 covering a foster child's operation of a motor vehicle in amounts required under Section  
269 31A-22-304 if the foster child is in the legal custody of the division.

270 (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
271 division shall make rules establishing:

272 (a) a procedure for providing the reimbursement to a foster parent described in  
273 Subsection (1);

274 (b) eligibility requirements for a foster parent to qualify for a reimbursement under this  
275 section; and

276 (c) a method for determining the amount of reimbursement that a foster parent is  
277 eligible to receive under this section.

278 (3) The division shall report to the Transportation Interim Committee no later than  
279 November 30, 2009:

280 (a) the number of foster children in the legal custody of the Division of Child and  
281 Family Services who have been issued a driver license;

282           (b) the results and impacts on the division and on foster parents signing for a foster  
283 child to receive a driver license; and

284           (c) the division's cost of reimbursing foster parents for providing owner's or operator's  
285 security in accordance with Subsection (1).