1   **IDENTITY THEFT AND OTHER CRIMES**

2   2008 GENERAL SESSION

3   STATE OF UTAH

4   **Chief Sponsor: Stephen E. Sandstrom**

5   Senate Sponsor: Carlene M. Walker

6

7 **LONG TITLE**

8 **General Description:**

9   This bill modifies provisions of the Financial Responsibility of Motor Vehicle Owners

10 and Operators Act related to access by a state or local law enforcement agency to the

11 Uninsured Motorist Identification Database.

12 **Highlighted Provisions:**

13   This bill:

14   ▸   provides that the Uninsured Motorist Identification Database Program shall be used

15 to assist in the identification and prevention of identity theft and other crimes;

16   ▸   provides that information in the Uninsured Motorist Identification Database may be

17 disclosed to a state or local law enforcement agency upon its request for the purpose

18 of investigating and prosecuting identity theft and other crimes; and

19   ▸   makes certain technical changes.

20 **Monies Appropriated in this Bill:**

21   None

22 **Other Special Clauses:**

23   None

24 **Utah Code Sections Affected:**

25 AMENDS:

26   **41-12a-803**, as last amended by Laws of Utah 2007, Chapter 262

27   **41-12a-805**, as last amended by Laws of Utah 2003, Chapter 32

28

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

30   Section 1. Section **41-12a-803** is amended to read:

31   **41-12a-803.   Program creation -- Administration -- Selection of designated agent**

32   **-- Duties -- Rulemaking -- Audits.**

33   (1) There is created the Uninsured Motorist Identification Database Program to:

34   (a) establish an Uninsured Motorist Identification Database to verify compliance with

35   motor vehicle owner's or operator's security requirements under Section 41-12a-301 and other

36   provisions under this part;

37   (b) assist in reducing the number of uninsured motor vehicles on the highways of the

38   state;

39   (c) assist in increasing compliance with motor vehicle registration and sales and use tax

40   laws; [and]

41   (d) assist in protecting a financial institution's bona fide security interest in a motor

42   vehicle[.]; and

43   (e) assist in the identification and prevention of identity theft and other crimes.

44   (2) The program shall be administered by the department with the assistance of the

45   designated agent and the Motor Vehicle Division.

46   (3) (a) The department shall contract in accordance with Title 63, Chapter 56, Utah

47   Procurement Code, with a third party to establish and maintain an Uninsured Motorist

48   Identification Database for the purposes established under this part.

49   (b) The contract may not obligate the department to pay the third party more monies

50   than are available in the account.

51   (4) (a) The third party under contract under this section is the department's designated

52   agent, and shall develop and maintain a computer database from the information provided by:

53   (i) insurers under Section 31A-22-315;

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

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

56   (b) (i) The database shall be developed and maintained in accordance with guidelines

57   established by the department so that state and local law enforcement agencies and financial

58   institutions as defined in Section 7-1-103 can efficiently access the records of the database,

59   including reports useful for the implementation of the provisions of this part.

60   (ii) (A) The reports shall be in a form and contain information approved by the

61   department.

62   (B) The reports may be made available through the Internet or through other electronic

63   medium, if the department determines that sufficient security is provided to ensure compliance

64   with Section 41-12a-805 regarding limitations on disclosure of information in the database.

65   (5) With information provided by the department and the Motor Vehicle Division, the

66   designated agent shall, at least monthly for submissions under Subsection 31A-22-315(2)(b) or

67   at least twice a month for submissions under Subsection 31A-22-315(2)(a):

68   (a) update the database with the motor vehicle insurance information provided by the

69   insurers in accordance with Section 31A-22-315; and

70   (b) compare all current motor vehicle registrations against the database.

71   (6) The division shall provide the designated agent with the name, date of birth,

72   address, and driver license number of all persons on the driver license database.

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

74   department shall make rules and develop procedures in cooperation with the Motor Vehicle

75   Division to use the database for the purpose of administering and enforcing this part.

76   (8) (a) The designated agent shall archive computer data files at least semi-annually for

77   auditing purposes.

78   (b) The internal audit unit of the tax commission provided under Section 59-1-206 shall

79   audit the program at least every three years.

80   (c) The audit under Subsection (8)(b) shall include verification of:

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

82   (ii) the accuracy of the designated agent's matching of vehicle registration with

83   insurance data.

84   Section 2. Section **41-12a-805** is amended to read:

85   **41-12a-805.   Disclosure of insurance information -- Penalty.**

86   (1) Information in the database established under Section 41-12a-803 provided by a

87 person to the designated agent is considered to be the property of the person providing the

88 information.

89   (2) The information may not be disclosed from the database under Title 63, Chapter 2,

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

91   (a) for the purpose of investigating, litigating, or enforcing the owner's or operator's

92 security requirement under Section 41-12a-301, the designated agent shall verify insurance

93 information through the state computer network for a state or local government agency or

94 court;

95   (b) for the purpose of investigating, litigating, or enforcing the owner's or operator's

96 security requirement under Section 41-12a-301, the designated agent shall, upon request, issue

97 to any state or local government agency or court a certificate documenting the insurance

98 information, according to the database, of a specific individual or motor vehicle for the time

99 period designated by the government agency;

100   (c) upon request, the department or its designated agent shall disclose whether or not a

101 person is an insured individual and the insurance company name to:

102   (i) that individual or, if that individual is deceased, any interested person of that

103 individual, as defined in Section 75-1-201;

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

105 minor;

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

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

108   (v) a person who submits a notarized release from the insured individual dated no more

109 than 90 days before the date the request is made; or

110   (vi) a person suffering loss or injury in a motor vehicle accident in which the insured

111 individual is involved, but only as part of an accident report as authorized in Section

112 41-12a-202;

113   (d) for the purpose of investigating, enforcing, or prosecuting laws or issuing citations

114   by state or local law enforcement agencies related to the:

115   (i) registration and renewal of registration of a motor vehicle under Title 41, Chapter

116   1a, Motor Vehicle Act;

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

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

119   (e) upon request of a peace officer acting in an official capacity under the provisions of

120   Subsection [(1)] (2)(d), the department or the designated agent shall, upon request, disclose

121   relevant information for investigation, enforcement, or prosecution;

122   (f) for the purpose of the state auditor, the legislative auditor general, or other auditor

123   of the state conducting audits of the program; [and]

124   (g) upon request of a financial institution as defined under Section 7-1-103 for the

125   purpose of protecting the financial institution's bona fide security interest in a motor vehicle[.];

126   and

127   (h) upon the request of a state or local law enforcement agency for the purpose of

128   investigating and prosecuting identity theft and other crimes.

129   [(2)] (3) (a) The department may allow the designated agent to prepare and deliver

130   upon request, a report on the insurance information of a person or motor vehicle in accordance

131   with this section.

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

133   (i) a certified copy that is considered admissible in any court proceeding in the same

134   manner as the original; or

135   (ii) information accessible through the Internet or through other electronic medium if

136   the department determines that sufficient security is provided to ensure compliance with this

137   section.

138   (c) The department may allow the designated agent to charge a fee established by the

139   department under Section 63-38-3.2 for each:

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

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

142   (iii) record provided to a financial institution under Subsection [(1)] (2)(g).

143   [(3)] (4) [Any] A person who knowingly releases or discloses information from the

144   database for a purpose other than those authorized in this section or to a person who is not

145   entitled to it is guilty of a third degree felony.

146   [(4)] (5) An insurer is not liable to any person for complying with Section 31A-22-315

147   by providing information to the designated agent.

148   [(5)] (6) Neither the state nor the department's designated agent [are] is liable to any

149   person for gathering, managing, or using the information in the database as provided in Section

150   31A-22-315 and this part.