

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 Buttar

7
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 or furnishes a motor vehicle to a foster child;

23 ▶ provides that the Office of Licensing within the Department of Human Services
24 shall require a child placing agency that provides foster home services to notify a
25 foster parent of the liability requirements when signing as a responsible adult for a
26 foster 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
30 for providing motor vehicle insurance coverage for a foster child who is in the legal
31 custody of the 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; and

35 ▶ makes technical changes.

36 **Monies Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 None

40 **Utah Code Sections Affected:**

41 AMENDS:

42 **31A-22-303**, as last amended by Laws of Utah 2005, Chapter 295

43 **53-3-211**, as last amended by Laws of Utah 2006, Chapter 201

44 **53-3-212**, as renumbered and amended by Laws of Utah 1993, Chapter 234

45 ENACTS:

46 **62A-2-108.5**, Utah Code Annotated 1953

47 **62A-4a-121**, Utah Code Annotated 1953



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

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

51 **31A-22-303. Motor vehicle liability coverage.**

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

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

58 (ii) (A) if it is an owner's policy, designate by appropriate reference all the motor

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

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

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

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

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

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

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

84 (b) The driver's liability under Subsection (1)(a)(v) is limited to the insurance
85 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
95 minor described in Subsection (1)(c)(i)(A) is no longer a resident of the named insured's
96 household.

97 (2) (a) A policy containing motor vehicle liability coverage under Subsection
98 31A-22-302(1)(a) may:

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

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

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

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

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

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

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

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

119 (b) resulting from bodily injury to or death of an employee of the named insured, other
120 than a domestic employee, while engaged in the employment of the insured, or while engaged

121 in the operation, maintenance, or repair of a designated vehicle; or

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

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

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

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

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

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

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

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

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

149 (8) A policy of motor vehicle liability coverage may limit coverage to the policy
150 minimum limits under Section 31A-22-304 if the insured motor vehicle is operated by a person
151 who has consumed any alcohol or any illegal drug or illegal substance if the policy or a

152 specifically reduced premium was extended to the insured upon express written declaration
153 executed by the insured that the insured motor vehicle would not be so operated.

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

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

158 (ii) through litigation.

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

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

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

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

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

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

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

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

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

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

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

182 (i) The amount of the arbitration award may not exceed the liability limits of all the

183 defendant's applicable liability insurance policies, including applicable liability umbrella
184 policies. If the initial arbitration award exceeds the liability limits of all applicable liability
185 insurance policies, the arbitration award shall be reduced to an amount equal to the liability
186 limits of all applicable liability insurance policies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

226 (i) minimum liability insurance policy limits established under Section 31A-22-304; or
227 (ii) the policy limits of the foster parent's liability insurance policy issued in accordance
228 with Section 31A-22-302 that were in effect at the time damages were caused by the minor's
229 operation of a motor vehicle.

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

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

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

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

243 (7) (a) In addition to the liability assumed under this section, the person who signs the
244 application of a minor for a provisional license must certify that the minor applicant, under the

245 authority of a permit issued under this chapter, has completed at least 40 hours of driving a
246 motor vehicle, of which at least ten hours shall be during night hours after sunset.

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

248 (i) hours completed in a driver education course as required under Subsection

249 53-3-505.5(1); and

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

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

253 **53-3-212. Owner giving permission and minor liable for damages caused by**
254 **minor driving a motor vehicle.**

255 (1) The owner of a motor vehicle causing or knowingly permitting a person younger
256 than 18 years of age to drive the motor vehicle on a highway, or a person who gives or
257 furnishes a motor vehicle to the minor, are each jointly and severally liable with the minor for
258 any damages caused by the negligence of the minor in driving the motor vehicle.

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

260 (3) Notwithstanding the requirement under Subsection (1), if a foster parent signs an
261 application under Subsection 53-3-211(2) for a minor who is in the legal custody of the
262 Division of Child and Family Services and who resides with the foster parent, the foster
263 parent's liability may not exceed the greater of:

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

265 (b) the policy limits of the foster parent's liability insurance policy issued in accordance
266 with Section 31A-22-302 that were in effect at the time damages were caused by the minor's
267 operation of the motor vehicle.

268 Section 4. Section **62A-2-108.5** is enacted to read:

269 **62A-2-108.5. Notification requirement for child placing agencies that provide**
270 **foster home services -- Rulemaking authority.**

271 (1) The office shall require a child placing agency that provides foster home services to
272 notify a foster parent that if the foster parent signs as the responsible adult for a foster child to
273 receive a driver license under Section 53-3-211:

274 (a) the foster parent is jointly and severally liable with the minor for civil compensatory
275 damages caused by the minor when operating a motor vehicle upon a highway as provided

276 under Subsections 53-3-211(2) and (4); and

277 (b) the foster parent may file with the Driver License Division a verified written
278 request that the learner permit or driver license be canceled in accordance with Section
279 53-3-211 if the foster child no longer resides with the foster parent.

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

283 Section 5. Section **62A-4a-121** is enacted to read:

284 **62A-4a-121. Reimbursement of motor vehicle insurance coverage for foster child.**

285 (1) Within the amounts appropriated to the division for the purposes described in this
286 section, the division may reimburse a foster parent for providing owner's or operator's security
287 covering a foster child's operation of a motor vehicle in amounts required under Section
288 31A-22-304 if the foster child is in the legal custody of the division.

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

291 (a) a procedure for providing the reimbursement to a foster parent described in
292 Subsection (1):

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

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

Legislative Review Note
as of 1-10-08 10:35 AM

Office of Legislative Research and General Counsel

H.B. 122 - Driver License - Application of Minor Amendments

**Revised
Fiscal Note**

2008 General Session
State of Utah

State Impact

Enactment of this legislation will require an appropriation of \$9,000 from the General Funds to the Division of Child and Family Services to reimburse foster parents for automobile insurance for youth in custody. The total cost of this bill is \$37,800 with \$28,800 from federal funds appropriated in the base budget to the Division of Child and Family Services (SB 1, State Agency and Higher Education Base Budget Appropriation).

	<u>FY 2008 Approp.</u>	<u>FY 2009 Approp.</u>	<u>FY 2010 Approp.</u>	<u>FY 2008 Revenue</u>	<u>FY 2009 Revenue</u>	<u>FY 2010 Revenue</u>
General Fund	\$0	\$9,000	\$9,000	\$0	\$0	\$0
Total	\$0	\$9,000	\$9,000	\$0	\$0	\$0

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.
