

Representative Curtis Oda proposes the following substitute bill:

MOTOR VEHICLE INSURANCE AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sheldon L. Killpack

House Sponsor: Stephen H. Urquhart

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ amends the definition of owner's and operator's security to clarify that certain motor vehicle insurance policies issued or renewed prior to July 1, 2008 satisfy the owner's or operator's security requirement;
- ▶ increases the minimum policy limits for motor vehicle liability coverage;
- ▶ increases the limit for medical expenses from in excess of \$3,000 to \$5,000 for a person who has or is required to have direct benefit coverage under a policy which includes personal injury protection to maintain a cause of action for general damages arising out of personal injuries alleged to have been caused by an automobile accident; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:



26 This bill takes effect on July 1, 2008.

27 This bill provides revisor instructions.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **31A-22-304**, as last amended by Laws of Utah 1993, Chapter 271

31 **31A-22-309**, as last amended by Laws of Utah 2001, Chapter 59

32 **41-12a-103**, as last amended by Laws of Utah 1993, Chapters 212 and 234

33 **41-12a-306**, as last amended by Laws of Utah 2004, Chapter 90

34 **41-12a-405**, as last amended by Laws of Utah 1991, Chapter 203



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

37 Section 1. Section **31A-22-304** is amended to read:

38 **31A-22-304. Motor vehicle liability policy minimum limits.**

39 Policies containing motor vehicle liability coverage may not limit the insurer's liability
40 under that coverage below the following:

41 (1) (a) [~~\$25,000~~] \$30,000 because of liability for bodily injury to or death of one
42 person, arising out of the use of a motor vehicle in any one accident;

43 (b) subject to the limit for one person in Subsection (1)(a), in the amount of [~~\$50,000~~]
44 \$60,000 because of liability for bodily injury to or death of two or more persons arising out of
45 the use of a motor vehicle in any one accident; and

46 (c) in the amount of [~~\$15,000~~] \$20,000 because of liability for injury to, or destruction
47 of, property of others arising out of the use of a motor vehicle in any one accident; or

48 (2) [~~\$65,000~~] \$80,000 in any one accident whether arising from bodily injury to or the
49 death of others, or from destruction of, or damage to, the property of others.

50 Section 2. Section **31A-22-309** is amended to read:

51 **31A-22-309. Limitations, exclusions, and conditions to personal injury**
52 **protection.**

53 (1) (a) A person who has or is required to have direct benefit coverage under a policy
54 which includes personal injury protection may not maintain a cause of action for general
55 damages arising out of personal injuries alleged to have been caused by an automobile
56 accident, except where the person has sustained one or more of the following:

- 57 (i) death;
- 58 (ii) dismemberment;
- 59 (iii) permanent disability or permanent impairment based upon objective findings;
- 60 (iv) permanent disfigurement; or
- 61 (v) medical expenses to a person in excess of [~~\$3,000~~] \$5,000.
- 62 (b) Subsection (1)(a) does not apply to a person making an uninsured motorist claim.
- 63 (2) (a) Any insurer issuing personal injury protection coverage under this part may only
- 64 exclude from this coverage benefits:
 - 65 (i) for any injury sustained by the insured while occupying another motor vehicle
 - 66 owned by or furnished for the regular use of the insured or a resident family member of the
 - 67 insured and not insured under the policy;
 - 68 (ii) for any injury sustained by any person while operating the insured motor vehicle
 - 69 without the express or implied consent of the insured or while not in lawful possession of the
 - 70 insured motor vehicle;
 - 71 (iii) to any injured person, if the person's conduct contributed to his injury:
 - 72 (A) by intentionally causing injury to himself; or
 - 73 (B) while committing a felony;
 - 74 (iv) for any injury sustained by any person arising out of the use of any motor vehicle
 - 75 while located for use as a residence or premises;
 - 76 (v) for any injury due to war, whether or not declared, civil war, insurrection, rebellion
 - 77 or revolution, or to any act or condition incident to any of the foregoing; or
 - 78 (vi) for any injury resulting from the radioactive, toxic, explosive, or other hazardous
 - 79 properties of nuclear materials.
- 80 (b) The provisions of this subsection do not limit the exclusions which may be
- 81 contained in other types of coverage.
- 82 (3) The benefits payable to any injured person under Section 31A-22-307 are reduced
- 83 by:
 - 84 (a) any benefits which that person receives or is entitled to receive as a result of an
 - 85 accident covered in this code under any workers' compensation or similar statutory plan; and
 - 86 (b) any amounts which that person receives or is entitled to receive from the United
 - 87 States or any of its agencies because that person is on active duty in the military service.

88 (4) When a person injured is also an insured party under any other policy, including
89 those policies complying with this part, primary coverage is given by the policy insuring the
90 motor vehicle in use during the accident.

91 (5) (a) Payment of the benefits provided for in Section 31A-22-307 shall be made on a
92 monthly basis as expenses are incurred.

93 (b) Benefits for any period are overdue if they are not paid within 30 days after the
94 insurer receives reasonable proof of the fact and amount of expenses incurred during the
95 period. If reasonable proof is not supplied as to the entire claim, the amount supported by
96 reasonable proof is overdue if not paid within 30 days after that proof is received by the
97 insurer. Any part or all of the remainder of the claim that is later supported by reasonable proof
98 is also overdue if not paid within 30 days after the proof is received by the insurer.

99 (c) If the insurer fails to pay the expenses when due, these expenses shall bear interest
100 at the rate of 1-1/2% per month after the due date.

101 (d) The person entitled to the benefits may bring an action in contract to recover the
102 expenses plus the applicable interest. If the insurer is required by the action to pay any overdue
103 benefits and interest, the insurer is also required to pay a reasonable attorney's fee to the
104 claimant.

105 (6) Every policy providing personal injury protection coverage is subject to the
106 following:

107 (a) that where the insured under the policy is or would be held legally liable for the
108 personal injuries sustained by any person to whom benefits required under personal injury
109 protection have been paid by another insurer, including the Workers' Compensation Fund
110 created under Chapter 33, the insurer of the person who would be held legally liable shall
111 reimburse the other insurer for the payment, but not in excess of the amount of damages
112 recoverable; and

113 (b) that the issue of liability for that reimbursement and its amount shall be decided by
114 mandatory, binding arbitration between the insurers.

115 Section 3. Section **41-12a-103** is amended to read:

116 **41-12a-103. Definitions.**

117 As used in this chapter:

118 (1) "Department" means the Department of Public Safety.

- 119 (2) "Judgment" means any judgment that is final by:
120 (a) expiration without appeal of the time within which an appeal might have been
121 perfected; or
122 (b) final affirmation on appeal, rendered by a court of competent jurisdiction of any
123 state or of the United States, upon a cause of action for damages:
124 (i) arising out of the ownership, maintenance, or use of any motor vehicle, including
125 damages for care and loss of services because of bodily injury to or death of any person, or
126 because of injury to or destruction of property including the loss of use of the property; or
127 (ii) on a settlement agreement.
- 128 (3) "License" or "license certificate" have the same meanings as under Section
129 53-3-102.
- 130 (4) (a) "Motor vehicle" means every self-propelled vehicle that is designed for use
131 upon a highway, including trailers and semitrailers designed for use with other motorized
132 vehicles.
133 (b) "Motor vehicle" does not include traction engines, road rollers, farm tractors,
134 tractor cranes, power shovels, and well drillers, and every vehicle that is propelled by electric
135 power obtained from overhead wires but not operated upon rails.
- 136 (5) "Nonresident" means every person who is not a resident of Utah.
- 137 (6) "Nonresident's operating privilege" means the privilege conferred upon a person
138 who is not a resident of Utah by the laws of Utah pertaining to the operation by him of a motor
139 vehicle, or the use of a motor vehicle owned by him, in Utah.
- 140 (7) "Operator" means every person who is in actual physical control of a motor vehicle.
- 141 (8) "Owner" means:
142 (a) a person who holds legal title to a motor vehicle;
143 (b) a lessee in possession;
144 (c) a conditional vendee or lessee if a motor vehicle is the subject of a conditional sale
145 or lease with the right of purchase upon performance of the conditions stated in the agreement
146 and with an immediate right of possession in the conditional vendee or lessee; or
147 (d) a mortgagor if a motor vehicle is the subject of a mortgage with the mortgagor
148 entitled to possession.
- 149 (9) "Owner's or operator's security," "owner's security," or "operator's security" means

150 any of the following:

151 (a) an insurance policy or combination of policies conforming to Section 31A-22-302,
152 which is issued by an insurer authorized to do business in Utah;

153 (b) an insurance policy or combination of policies issued or renewed prior to July 1,
154 2008 that:

155 (i) conformed to the minimum coverage limits of Section 31A-22-304 prior to the
156 effective date of this bill; and

157 (ii) conform to the current requirements other than the minimum coverage limits of
158 policies issued in accordance with Section 31A-22-302;

159 ~~(b)~~ (c) a surety bond issued by an insurer authorized to do a surety business in Utah in
160 which the surety is subject to the minimum coverage limits and other requirements of policies
161 conforming to Section 31A-22-302, which names the department as a creditor under the bond
162 for the use of persons entitled to the proceeds of the bond;

163 ~~(c)~~ (d) a deposit with the state treasurer of cash or securities complying with Section
164 41-12a-406;

165 ~~(d)~~ (e) maintaining a certificate of self-funded coverage under Section 41-12a-407; or

166 ~~(e)~~ (f) a policy conforming to Section 31A-22-302 issued by the Risk Management
167 Fund created in Section 63A-4-201.

168 (10) "Registration" means the issuance of the certificates and registration plates issued
169 under the laws of Utah pertaining to the registration of motor vehicles.

170 (11) "Self-insurance" has the same meaning as provided in Section 31A-1-301.

171 Section 4. Section **41-12a-306** is amended to read:

172 **41-12a-306. Claims adjustment by persons with owner's or operator's security**
173 **other than insurance.**

174 (1) An owner or operator of a motor vehicle with respect to whom owner's or operator's
175 security is maintained by a means other than an insurance policy under Subsection
176 41-12a-103(9)(a) or (b), shall refer all bodily injury claims against the owner's or operator's
177 security to an independent adjuster licensed under Title 31A, Chapter 26, Insurance Adjusters,
178 or to an attorney.

179 (2) Unless otherwise provided by contract, any motor vehicle claim adjustment
180 expense incurred by a person maintaining owner's or operator's security by a means other than

181 an insurance policy under Subsection 41-12a-103(9)(a) or (b), shall be paid by the person who
182 maintains this type of owner's or operator's security.

183 (3) Owners and operators of motor vehicles maintaining owner or operator's security by
184 a means other than an insurance policy under Subsection 41-12a-103(9)(a) or (b) are subject to
185 the claim adjustment provisions of Title 31A, Chapter 26, Part 3, Claim Practices, in
186 connection with claims against such persons which arise out of the ownership, maintenance, or
187 use of a motor vehicle.

188 (4) In addition to other penalties and remedies available for failure to abide by this
189 section, the department may require any person violating this section to maintain owner's or
190 operator's security only in the manner specified under Subsection 41-12a-103(9)(a).

191 Section 5. Section **41-12a-405** is amended to read:

192 **41-12a-405. Surety bond as proof of owner's or operator's security.**

193 (1) Proof of owner's or operator's security may be furnished by filing with the
194 department a copy of a surety bond, certified by the surety, which conforms to Subsection
195 41-12a-103(9)(~~b~~)(c). The bond may not be canceled except after ten days' written notice to
196 the department.

197 (2) If a judgment rendered against the principal within the coverage of the bond is not
198 satisfied within 60 days after judgment becomes final, the judgment creditor may, for his own
199 use and benefit and at his sole expense, bring an action in the name of the department against
200 the surety executing the bond.

201 Section 6. **Effective date.**

202 This bill takes effect on July 1, 2008.

203 Section 7. **Revisor instructions.**

204 It is the intent of the Legislature, that in preparing the Utah Code database for
205 publication, the Office of Legislative Research and General Counsel shall replace the reference
206 in Subsection 41-12a-103(9)(b)(i) from "this bill" to the bill's designated chapter number in the
207 Laws of Utah.