

MOTOR VEHICLE ACCIDENT REPORTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Dennis E. Stowell

House Sponsor: Rebecca D. Lockhart

LONG TITLE

General Description:

This bill modifies the Traffic Code by amending provisions relating to motor vehicle accident reports.

Highlighted Provisions:

This bill:

- ▶ requires an investigating peace officer to record on an accident report whether an accident occurred on a livestock highway if the accident resulted in the injury or death of livestock;
- ▶ requires a peace officer investigating an accident resulting in injury or death of any livestock to make arrangements with the owner of the livestock to:
 - deliver, mail, email, fax, or otherwise provide the owner of the livestock a copy of the accident report; or
 - advise the owner of the livestock where a copy of the accident report may be obtained; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-404, as last amended by Laws of Utah 2009, Chapter 183

30 **41-6a-408**, as renumbered and amended by Laws of Utah 2005, Chapter 2

31

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

33 Section 1. Section **41-6a-404** is amended to read:

34 **41-6a-404. Accident reports -- When confidential -- Insurance policy**
35 **information -- Use as evidence -- Penalty for false information.**

36 (1) As used in this section:

37 (a) "Agent" means:

38 (i) a person's attorney;

39 (ii) a person's insurer;

40 (iii) a general acute hospital, as defined in Section 26-21-2, that:

41 (A) has an emergency room; and

42 (B) is providing or has provided emergency services to the person in relation to the
43 accident; or

44 (iv) any other individual or entity with signed permission from the person to receive
45 the person's accident report.

46 (b) "Accompanying data" means all materials gathered by the investigating peace
47 officer in an accident investigation including:

48 (i) the identity of witnesses and, if known, contact information;

49 (ii) witness statements;

50 (iii) photographs and videotapes;

51 (iv) diagrams; and

52 (v) field notes.

53 (2) (a) Except as provided in Subsection (3), all accident reports required in this part
54 to be filed with the department:

55 [~~(a)~~] (i) are without prejudice to the reporting individual;

56 [~~(b)~~] (ii) are protected and for the confidential use of the department or other state,
57 local, or federal agencies having use for the records for official governmental statistical,

58 investigative, and accident prevention purposes; and

59 ~~[(e)]~~ (iii) may be disclosed only in a statistical form that protects the privacy of any
60 person involved in the accident.

61 (b) An investigating peace officer shall include in an accident report an indication as
62 to whether the accident occurred on a highway designated as a livestock highway in
63 accordance with Section 72-3-112 if the accident resulted in the injury or death of livestock.

64 (3) (a) Subject to the provisions of this section, the department or the responsible law
65 enforcement agency employing the peace officer that investigated the accident shall disclose
66 an accident report to:

- 67 (i) a person involved in the accident, excluding a witness to the accident;
- 68 (ii) a person suffering loss or injury in the accident;
- 69 (iii) an agent, parent, or legal guardian of a person described in Subsections (3)(a)(i)
70 and (ii);
- 71 (iv) subject to Subsection (3)(d), a member of the press or broadcast news media;
- 72 (v) a state, local, or federal agency that uses the records for official governmental,
73 investigative, or accident prevention purposes;
- 74 (vi) law enforcement personnel when acting in their official governmental capacity;
75 and
- 76 (vii) a licensed private investigator.

77 (b) The responsible law enforcement agency employing the peace officer that
78 investigated the accident:

- 79 (i) shall in compliance with Subsection (3)(a):
 - 80 (A) disclose an accident report; or
 - 81 (B) upon written request disclose an accident report and its accompanying data within
82 10 business days from receipt of a written request for disclosure; or
 - 83 (ii) may withhold an accident report, and any of its accompanying data if disclosure
84 would jeopardize an ongoing criminal investigation or criminal prosecution.
- 85 (c) In accordance with Subsection (3)(a), the department or the responsible law

86 enforcement agency employing the investigating peace officer shall disclose whether any
87 person or vehicle involved in an accident reported under this section was covered by a vehicle
88 insurance policy, and the name of the insurer.

89 (d) Information provided to a member of the press or broadcast news media under
90 Subsection (3)(a)(iv) may only include:

91 (i) the name, age, sex, and city of residence of each person involved in the accident;

92 (ii) the make and model year of each vehicle involved in the accident;

93 (iii) whether or not each person involved in the accident was covered by a vehicle
94 insurance policy;

95 (iv) the location of the accident; and

96 (v) a description of the accident that excludes personal identifying information not
97 listed in Subsection (3)(d)(i).

98 (e) The department shall disclose to any requesting person the following vehicle
99 accident history information, excluding personal identifying information, in bulk electronic
100 form:

101 (i) any vehicle identifying information that is electronically available, including the
102 make, model year, and vehicle identification number of each vehicle involved in an accident;

103 (ii) the date of the accident; and

104 (iii) any electronically available data which describes the accident, including a
105 description of any physical damage to the vehicle.

106 (f) The department may establish a fee under Section 63J-1-504 based on the fair
107 market value of the information for providing bulk vehicle accident history information under
108 Subsection (3)(e).

109 (4) (a) Except as provided in Subsection (4)(b), accident reports filed under this
110 section may not be used as evidence in any civil or criminal trial arising out of an accident.

111 (b) (i) Upon demand of any party to the trial or upon demand of any court, the
112 department shall furnish a certificate showing that a specified accident report has or has not
113 been made to the department in compliance with law.

- 114 (ii) If the report has been made, the certificate furnished by the department shall show:
- 115 (A) the date, time, and location of the accident;
- 116 (B) the names and addresses of the drivers;
- 117 (C) the owners of the vehicles involved; and
- 118 (D) the investigating peace officers.

119 (iii) The reports may be used as evidence when necessary to prosecute charges filed in
120 connection with a violation of Subsection (5).

121 (5) A person who gives information in reports as required in this part knowing or
122 having reason to believe that the information is false is guilty of a class A misdemeanor.

123 (6) The department and the responsible law enforcement agency employing the
124 investigating peace officer may charge a reasonable fee determined by the department under
125 Section 63J-1-504 for the cost incurred in disclosing an accident report or an accident report
126 and any of its accompanying data under Subsections (3)(a) and (b).

127 Section 2. Section ~~41-6a-408~~ is amended to read:

128 **41-6a-408. Peace officer investigating accident to notify owner if livestock or**
129 **broken fence involved -- Exempt from liability.**

130 (1) A peace officer investigating an accident resulting in injury or death of any
131 livestock shall make reasonable efforts as soon as possible to:

- 132 (a) locate the owner of the livestock [~~and~~];
- 133 (b) inform the owner of the injured or dead animal[-]; and
- 134 (c) (i) make arrangements with the owner of the livestock to deliver, mail, email, fax,
135 or otherwise provide the owner of the livestock a copy of the accident report prepared in
136 accordance with Section 41-6a-404; or

137 (ii) advise the owner of the livestock where a copy of the accident report prepared in
138 accordance with Section 41-6a-404 may be obtained.

139 (2) A peace officer investigating an accident resulting in a broken fence, if it appears
140 the fence contains or controls the movement of livestock, shall make reasonable efforts as soon
141 as possible to locate the owner of the property and inform the owner of the broken fence.

142 (3) (a) Civil or criminal liability for claims does not arise against any peace officer for
143 failure to locate the owner of the livestock or property.

144 (b) Subsection (3)(a) does not preclude disciplinary action by the law enforcement
145 agency against a peace officer for failure to perform duties required by this section.