

HB0020S01 compared with HB0020

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Representative Christopher N. Herrod proposes the following substitute bill:

ACCIDENT RESPONSIBILITY AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christopher N. Herrod

Senate Sponsor: _____

LONG TITLE

~~{Committee Note:~~

~~———The Transportation Interim Committee recommended this bill.~~

~~}General Description:~~

This bill modifies the Motor Vehicles Code by amending provisions relating to accident responsibilities.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ clarifies that an operator of a vehicle who has reason to believe that the operator has been involved in an accident shall stop the vehicle at the scene of the accident and fulfill certain requirements;
- ▶ provides that if an operator of a vehicle has reason to believe that the operator has been involved in a motor vehicle accident only after leaving the scene of the accident, the operator shall immediately comply as nearly as possible with certain requirements;

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- ▶ clarifies that a person is guilty of a class A misdemeanor if the person does not comply with the accident responsibility requirements and the accident resulted in injury to any person;
- ▶ clarifies that a person is guilty of a felony if the person does not comply with certain accident responsibility requirements and the accident resulted in serious bodily injury to a person or the death of a person; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

~~41-6a-401~~, as last amended by Laws of Utah 2009, Chapter 115

~~41-6a-401.3~~, as last amended by Laws of Utah 2010, Chapter 128

~~41-6a-401.3, as enacted by Laws of Utah 2007, Chapter 132~~

~~53-3-414, as last amended by Laws of Utah 2010, Chapters 196 and 283~~

REPEALS:

~~41-6a-401.3, as last amended by Laws of Utah 2010, Chapter 128~~

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

Section 1. Section 41-6a-401 is amended to read:

41-6a-401. Accident involving property damage -- Duties of operator, occupant, and owner -- Exchange of information -- Notification of law enforcement -- Penalties.

(1) As used in this section, "reason to believe" means information from which a reasonable person would believe that the person may have been involved in an accident.

(1)(2) (a) The operator of a vehicle who has reason to believe that the operator may have been involved in an accident resulting only in damage to another vehicle or other property:

(i) may move the vehicle as soon as possible off the roadway or freeway main lines, shoulders, medians, or adjacent areas to the nearest safe location on an exit ramp shoulder, a

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frontage road, the nearest suitable cross street, or other suitable location that does not obstruct traffic; and

(ii) shall remain at the scene of the accident or the location described in Subsection ~~[(+)](2)~~(a)(i) until the operator has fulfilled the requirements of this section.

(b) Moving a vehicle as required under Subsection ~~[(+)](2)~~(a)(i) does not affect the determination of fault for an accident.

(c) If the operator has reason to believe that the operator may have been involved in an accident resulting in damage to another vehicle or other property only after leaving the scene of the accident, the operator shall immediately comply as nearly as possible with the requirements of this section.

~~[(2)](3)~~ Except as provided under Subsection ~~[(5)](6)~~, if the vehicle or other property is operated, occupied, or attended by any person or if the owner of the vehicle or property is present, the operator of the vehicle involved in the accident shall:

(a) give to the persons involved:

(i) the operator's name, address, and the registration number of the vehicle being operated; and

(ii) the name of the insurance provider covering the vehicle being operated including the phone number of the agent or provider; and

(b) upon request and if available, exhibit the operator's license to:

(i) any investigating peace officer present;

(ii) the operator, occupant of, or person attending the vehicle or other property damaged in the accident; and

(iii) the owner of property damaged in the accident, if present.

~~[(3)](4)~~ The operator of a vehicle involved in an accident shall immediately and by the quickest means of communication available give notice or cause to give notice of the accident to the nearest office of a law enforcement agency if the accident resulted in property damage to an apparent extent of \$1,500 or more.

~~[(4)](5)~~ Except as provided under Subsection ~~[(5)](6)~~, if the vehicle or other property damaged in the accident is unattended, the operator of the vehicle involved in the accident shall:

(a) locate and notify the operator or owner of the vehicle or the owner of other property

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damaged in the accident of the operator's name, address, and the registration number of the vehicle causing the damage; or

(b) attach securely in a conspicuous place on the vehicle or other property a written notice giving the operator's name, address, and the registration number of the vehicle causing the damage.

~~[(5)]~~[(6)] The operator of a vehicle that provides the information required under this section to an investigating peace officer at the scene of the accident is exempt from providing the information to other persons required under this section.

~~[(6)]~~[(7)] (a) A person who violates the provisions of Subsection ~~[(4)]~~[(2)] is guilty of a class B misdemeanor.

(b) A person who violates the provision of Subsection ~~[(4)]~~[(5)] is guilty of a class B misdemeanor.

Section ~~[(1)]~~2. Section **41-6a-401.3** is amended to read:

41-6a-401.3. Accident involving injury ~~{or death}~~-- Stop at accident -- Penalty.

(1) As used in this section~~[-]~~:

(a) "Reason to believe" means information from which a reasonable person would believe that the person may have been involved in an accident.

(b) "Serious bodily injury" means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(2) (a) The operator of a vehicle who has reason to believe that the operator may have been involved in an accident ~~[(1)]~~ resulting in injury to a person~~[(1)]~~ shall:

~~[(a)]~~ (i) immediately stop the vehicle at the scene of the accident or as close to it as possible without obstructing traffic more than is necessary; and

~~[(b)]~~ (ii) remain at the scene of the accident until the operator has fulfilled the requirements of Section 41-6a-401.7.

(b) If the operator has reason to believe that the operator may have been involved in an accident only after leaving the scene of the accident, the operator shall immediately comply as nearly as possible with the requirements of Section 41-6a-401.7.

(3) (a) Except as provided in Subsection (3)(b), a person who violates the provisions of Subsection (2):

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(i) is guilty of a class A misdemeanor if the accident resulted in injury to any person;
and

(ii) shall be fined not less than \$750.

(b) A person who violates the provisions of Subsection (2):

(i) is guilty of a third degree felony if the accident resulted in serious bodily injury to a person ~~{ or the death of a person }~~; and

(ii) shall be fined not less than \$750.

Section 3. Section 41-6a-401.5 is amended to read:

41-6a-401.5. Accident involving death -- Stop at accident -- Penalty.

~~{(1)}~~ (1) As used in this section, "reason to believe" means information from which a reasonable person would believe that the person may have been involved in an accident.

~~[(1)]~~ (2) (a) The operator of a vehicle who has reason to believe that the operator may have been involved in an accident resulting in the death of a person shall:

~~[(a)]~~ (i) immediately stop the vehicle at the scene of the accident or as close to it as possible without obstructing traffic more than is necessary; and

~~[(b)]~~ (ii) remain at the scene of the accident until the operator has fulfilled the requirements of Section 41-6a-401.7.

(b) If the operator has reason to believe that the operator may have been involved in an accident only after leaving the scene of the accident, the operator shall immediately comply as nearly as possible with the requirements of 41-6a-401.7.

~~[(2)]~~ (3) A person who violates the provisions of Subsection ~~[(1)]~~ (2) is guilty of a third degree felony and shall be fined not less than \$750.

~~{~~ Section 2. Section 41-6a-401.7 is amended to read:

~~————~~ **41-6a-401.7. Accident involving injury, death, or property damage -- Duties of operator, occupant, and owner -- Exchange of information -- Notification of law enforcement -- Penalties:**

~~————~~ (1) The operator of a vehicle involved in an accident under Section 41-6a-401.3 [or 41-6a-401.5] shall:

~~————~~ (a) give to the persons involved:

~~————~~ (i) the operator's name, address, and the registration number of the vehicle being operated; and

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- ~~—— (i) the name of the insurance provider covering the vehicle being operated including the phone number of the agent or provider;~~
- ~~—— (b) upon request and if available, exhibit the operator's license to:~~
 - ~~—— (i) any investigating peace officer present;~~
 - ~~—— (ii) the person struck;~~
 - ~~—— (iii) the operator, occupant of, or person attending the vehicle or other property damaged in the accident; and~~
 - ~~—— (iv) the owner of property damaged in the accident, if present; and~~
- ~~—— (c) render to any person injured in the accident reasonable assistance, including transporting or making arrangements for transporting, of the injured person to a physician or hospital for medical treatment if:~~
 - ~~—— (i) it is apparent that treatment is necessary; or~~
 - ~~—— (ii) transportation is requested by the injured person.~~
- ~~—— (2) The operator of a vehicle involved in an accident under Section 41-6a-401.3 [or 41-6a-401.5] shall immediately and by the quickest means of communication available give notice or cause to give notice of the accident to the nearest office of a law enforcement agency.~~
- ~~—— (3) The occupant of a vehicle involved in an accident under Section 41-6a-401.3 [or 41-6a-401.5] who is not the operator of the vehicle shall give or cause to give the immediate notice required under Subsection (2) if:~~
 - ~~—— (a) the operator of a vehicle involved in an accident is physically incapable of giving the notice; and~~
 - ~~—— (b) the occupant is capable of giving an immediate notice.~~
- ~~—— (4) Except as provided under Subsection (5), if a vehicle or other property damaged in the accident is unattended, the operator of the vehicle involved in the accident shall:~~
 - ~~—— (a) locate and notify the operator or owner of the vehicle or the owner of other property damaged in the accident of the operator's name, address, and the registration number of the vehicle causing the damage; or~~
 - ~~—— (b) attach securely in a conspicuous place on the vehicle or other property a written notice giving the operator's name, address, and the registration number of the vehicle causing the damage.~~
- ~~—— (5) The operator of a vehicle that provides the information required under this section~~

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~~to an investigating peace officer at the scene of the accident is exempt from providing the information to other persons required under this section:~~

~~—— (6) A person who violates Subsection (4) is guilty of a class B misdemeanor.~~

~~—— Section 3. Section 53-3-414 is amended to read:~~

~~—— 53-3-414. CDL disqualification or suspension -- Grounds and duration --~~

Procedure:

~~—— (1) A person who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first offense of:~~

~~—— (a) driving a motor vehicle while under the influence of alcohol, drugs, a controlled substance, or more than one of these;~~

~~—— (b) driving a commercial motor vehicle while the concentration of alcohol in the person's blood, breath, or urine is .04 grams or more;~~

~~—— (c) leaving the scene of an accident involving a motor vehicle the person was driving;~~

~~—— (d) failing to provide reasonable assistance or identification when involved in an accident resulting in:~~

~~—— (i) death in accordance with Section [41-6a-401.5] 41-6a-401.3; or~~

~~—— (ii) personal injury in accordance with Section 41-6a-401.3;~~

~~—— (e) using a motor vehicle in the commission of a felony;~~

~~—— (f) refusal to submit to a test to determine the concentration of alcohol in the person's blood, breath, or urine;~~

~~—— (g) driving a commercial motor vehicle while the person's commercial driver license is disqualified in accordance with the provisions of this section for violating an offense described in this section; or~~

~~—— (h) operating a commercial motor vehicle in a negligent manner causing the death of another including the offenses of automobile homicide under Section 76-5-207, manslaughter under Section 76-5-205, or negligent homicide under Section 76-5-206.~~

~~—— (2) If any of the violations under Subsection (1) occur while the driver is transporting a hazardous material required to be placarded, the driver is disqualified for not less than three years.~~

~~—— (3) (a) Except as provided under Subsection (4), a driver of a motor vehicle who holds~~

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~~or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if convicted of or administrative action is taken for two or more of any of the offenses under Subsection (1), (5), or (14) arising from two or more separate incidents:~~

~~—— (b) Subsection (3)(a) applies only to those offenses committed after July 1, 1989:~~

~~—— (4) (a) Any driver disqualified for life from driving a commercial motor vehicle under this section may apply to the division for reinstatement of the driver's CDL if the driver:~~

~~—— (i) has both voluntarily enrolled in and successfully completed an appropriate rehabilitation program that:~~

~~—— (A) meets the standards of the division; and~~

~~—— (B) complies with 49 C.F.R. Part 383.51;~~

~~—— (ii) has served a minimum disqualification period of 10 years; and~~

~~—— (iii) has fully met the standards for reinstatement of commercial motor vehicle driving privileges established by rule of the division:~~

~~—— (b) If a reinstated driver is subsequently convicted of another disqualifying offense under this section, the driver is permanently disqualified for life and is ineligible to again apply for a reduction of the lifetime disqualification:~~

~~—— (5) A driver of a motor vehicle who holds or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if the driver uses a motor vehicle in the commission of any felony involving the manufacturing, distributing, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance and is ineligible to apply for a reduction of the lifetime disqualification under Subsection (4):~~

~~—— (6) (a) Subject to Subsection (6)(b), a driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified for not less than:~~

~~—— (i) 60 days from driving a commercial motor vehicle if the driver is convicted of two serious traffic violations; and~~

~~—— (ii) 120 days if the driver is convicted of three or more serious traffic violations:~~

~~—— (b) The disqualifications under Subsection (6)(a) are effective only if the serious traffic violations:~~

~~—— (i) occur within three years of each other;~~

~~—— (ii) arise from separate incidents; and~~

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~~—— (iii) involve the use or operation of a commercial motor vehicle.~~

~~—— (c) If a driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle and the division receives notice of a subsequent conviction for a serious traffic violation that results in an additional disqualification period under this Subsection (6), the subsequent disqualification period is effective beginning on the ending date of the current serious traffic violation disqualification period.~~

~~—— (7) (a) A driver of a commercial motor vehicle who is convicted of violating an out-of-service order while driving a commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period not less than:~~

~~—— (i) 180 days if the driver is convicted of a first violation;~~

~~—— (ii) two years if, during any 10 year period, the driver is convicted of two violations of out-of-service orders in separate incidents;~~

~~—— (iii) three years but not more than five years if, during any 10 year period, the driver is convicted of three or more violations of out-of-service orders in separate incidents;~~

~~—— (iv) 180 days but not more than two years if the driver is convicted of a first violation of an out-of-service order while transporting hazardous materials required to be placarded or while operating a motor vehicle designed to transport 16 or more passengers, including the driver; or~~

~~—— (v) three years but not more than five years if, during any 10 year period, the driver is convicted of two or more violations, in separate incidents, of an out-of-service order while transporting hazardous materials required to be placarded or while operating a motor vehicle designed to transport 16 or more passengers, including the driver.~~

~~—— (b) A driver of a commercial motor vehicle who is convicted of a first violation of an out-of-service order is subject to a civil penalty of not less than \$2,500.~~

~~—— (c) A driver of a commercial motor vehicle who is convicted of a second or subsequent violation of an out-of-service order is subject to a civil penalty of not less than \$5,000.~~

~~—— (8) A driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified for not less than 60 days if the division determines, in its check of the driver's driver license status, application, and record prior to issuing a CDL or at any time after the CDL is issued, that the driver has falsified information required to apply for a CDL in this state.~~

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~~———— (9) A driver of a commercial motor vehicle who is convicted of violating a railroad-highway grade crossing provision under Section 41-6a-1205, while driving a commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period not less than:~~

~~———— (a) 60 days if the driver is convicted of a first violation;~~

~~———— (b) 120 days if, during any three-year period, the driver is convicted of a second violation in separate incidents; or~~

~~———— (c) one year if, during any three-year period, the driver is convicted of three or more violations in separate incidents.~~

~~———— (10) (a) The division shall update its records and notify the CDLIS within 10 days of suspending, revoking, disqualifying, denying, or cancelling a CDL to reflect the action taken.~~

~~———— (b) When the division suspends, revokes, cancels, or disqualifies a nonresident CDL, the division shall notify the licensing authority of the issuing state or other jurisdiction and the CDLIS within 10 days after the action is taken.~~

~~———— (c) When the division suspends, revokes, cancels, or disqualifies a CDL issued by this state, the division shall notify the CDLIS within 10 days after the action is taken.~~

~~———— (11) (a) The division may immediately suspend or disqualify the CDL of a driver without a hearing or receiving a record of the driver's conviction when the division has reason to believe that the:~~

~~———— (i) CDL was issued by the division through error or fraud;~~

~~———— (ii) applicant provided incorrect or incomplete information to the division;~~

~~———— (iii) applicant cheated on any part of a CDL examination;~~

~~———— (iv) driver no longer meets the fitness standards required to obtain a CDL; or~~

~~———— (v) driver poses an imminent hazard.~~

~~———— (b) Suspension of a CDL under this Subsection (11) shall be in accordance with Section 53-3-221.~~

~~———— (c) If a hearing is held under Section 53-3-221, the division shall then rescind the suspension order or cancel the CDL.~~

~~———— (12) (a) Subject to Subsection (12)(b), a driver of a motor vehicle who holds or is required to hold a CDL is disqualified for not less than:~~

~~———— (i) 60 days from driving a commercial motor vehicle if the driver is convicted of two~~

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~~serious traffic violations; and~~

~~—— (ii) 120 days if the driver is convicted of three or more serious traffic violations:~~

~~—— (b) The disqualifications under Subsection (12)(a) are effective only if the serious traffic violations:~~

~~—— (i) occur within three years of each other;~~

~~—— (ii) arise from separate incidents; and~~

~~—— (iii) result in a denial, suspension, cancellation, or revocation of the non-CDL driving privilege from at least one of the violations:~~

~~—— (c) If a driver of a motor vehicle who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle and the division receives notice of a subsequent conviction for a serious traffic violation that results in an additional disqualification period under this Subsection (12), the subsequent disqualification period is effective beginning on the ending date of the current serious traffic violation disqualification period:~~

~~—— (13) (a) Upon receiving a notice that a person has entered into a plea of guilty or no contest to a violation of a disqualifying offense described in this section which plea is held in abeyance pursuant to a plea in abeyance agreement, the division shall disqualify, suspend, cancel, or revoke the person's CDL for the period required under this section for a conviction of that disqualifying offense, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement:~~

~~—— (b) The division shall report the plea in abeyance to the CDLIS within 10 days of taking the action under Subsection (13)(a):~~

~~—— (c) A plea which is held in abeyance may not be removed from a person's driving record for 10 years from the date of the plea in abeyance agreement, even if the charge is:~~

~~—— (i) reduced or dismissed in accordance with the plea in abeyance agreement; or~~

~~—— (ii) expunged under Section 77-40-105:~~

~~—— (14) The division shall disqualify the CDL of a driver for an arrest of a violation of Section 41-6a-502 when administrative action is taken against the operator's driving privilege pursuant to Section 53-3-223 for a period of:~~

~~—— (a) one year; or~~

~~—— (b) three years if the violation occurred while transporting hazardous materials:~~

~~—— (15) The division may concurrently impose any disqualification periods that arise~~

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~~under this section while a driver is disqualified by the Secretary of the United States Department of Transportation under 49 C.F.R. 383.52 for posing an imminent hazard.~~

~~Section 4. **Repealer.**~~

~~This bill repeals:~~

~~Section ~~41-6a-401.5~~, **Accident involving death -- Stop at accident -- Penalty.**~~

Legislative Review Note

~~as of 9-21-10 4:39 PM~~

~~Office of Legislative Research and General Counsel}~~