

**BOATING INSURANCE**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lee B. Perry**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to insurance requirements for motorboats.

**Highlighted Provisions:**

This bill:

- ▶ provides definitions;
- ▶ includes motorboats in the Uninsured Motorist Identification Database Program;
- ▶ requires each insurer that issues a policy that includes motorboat liability coverage to provide the Department of Public Safety's designated agent a record of each motorboat insurance policy in effect for motorboats registered or garaged in Utah;
  - ▶ authorizes the Division of Parks and Recreation or its authorized agent to revoke the registration of a motorboat if the division or its authorized agent receives notification by the Department of Public Safety's designated agent that the owner of a motorboat:
    - has failed to provide satisfactory proof of owner's or operator's security to the designated agent after the second notice; or
    - provided a false or fraudulent statement to the designated agent;
  - ▶ provides that an applicant shall pay a registration reinstatement fee at the time application is made for reinstatement or renewal of registration of a motorboat after a revocation of the motorboat registration in certain circumstances;
  - ▶ imposes an uninsured motorist identification fee on each motorboat at the time



28 application is made for registration or renewal of registration of a motorboat; and  
29       ▶ makes conforming changes.

30 **Money Appropriated in this Bill:**

31       None

32 **Other Special Clauses:**

33       This bill takes effect on October 1, 2012.

34 **Utah Code Sections Affected:**

35 AMENDS:

- 36       **41-1a-120**, as last amended by Laws of Utah 2006, Chapter 130
- 37       **41-1a-1220**, as last amended by Laws of Utah 2008, Chapter 322
- 38       **41-12a-802**, as last amended by Laws of Utah 1998, Chapter 36
- 39       **41-12a-803**, as last amended by Laws of Utah 2011, Chapter 342
- 40       **41-12a-804**, as last amended by Laws of Utah 2010, Chapter 260
- 41       **41-12a-805**, as last amended by Laws of Utah 2009, Chapter 183
- 42       **41-12a-806**, as last amended by Laws of Utah 2008, Chapter 322
- 43       **73-18-7.3**, as last amended by Laws of Utah 1992, Chapter 1

44 ENACTS:

- 45       **31A-22-1505**, Utah Code Annotated 1953
- 46       **73-18-7.5**, Utah Code Annotated 1953



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

49       Section 1. Section **31A-22-1505** is enacted to read:

50       **31A-22-1505. Motorboat insurance reporting -- Penalty.**

51       (1) (a) Except as provided in Subsection (1)(b), each insurer that issues a policy that  
52 includes motorboat liability coverage under this part shall, before the seventh and twenty-first  
53 day of each calendar month, provide to the Department of Public Safety's designated agent  
54 selected in accordance with Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification  
55 Database Program, a record of each motorboat insurance policy in effect for motorboats  
56 registered or garaged in Utah as of the previous submission that was issued by the insurer.

57       (b) This Subsection (1) does not preclude more frequent reporting.

58       (2) A record provided by an insurer under Subsection (1)(a) shall include:

59 (a) the name, date of birth, and driver license number, if the insured provides a driver  
60 license number to the insurer, of each insured owner or operator, and the address of the named  
61 insured;

62 (b) the make, year, and registration number of each insured motorboat; and

63 (c) the policy number, effective date, and expiration date of each policy.

64 (3) Each insurer shall provide this information by an electronic means or by another  
65 form the Department of Public Safety's designated agent agrees to accept.

66 (4) (a) The commissioner may, following procedures set forth in Title 63G, Chapter 4,  
67 Administrative Procedures Act, assess a fine against an insurer of up to \$250 for each day the  
68 insurer fails to comply with this section.

69 (b) If an insurer shows that the failure to comply with this section was inadvertent,  
70 accidental, or the result of excusable neglect, the commissioner shall excuse the fine.

71 Section 2. Section **41-1a-120** is amended to read:

72 **41-1a-120. Participation in Uninsured Motorist Identification Database Program.**

73 (1) (a) Except as provided in Subsection (1)(b), the division shall provide the  
74 Department of Public Safety's designated agent, as defined in Section 41-12a-802, with a  
75 record of all current motor vehicle and motorboat registrations before the seventh and  
76 twenty-first day of each calendar month.

77 (b) The division is not required to provide the Department of Public Safety's designated  
78 agent as defined in Section 41-12a-802 a record of current motor vehicle registrations for  
79 vehicles that are registered under Section 41-1a-221, 41-1a-222, or 41-1a-301.

80 (2) The division shall perform the duties specified in:

81 (a) [~~Title 41,~~] Chapter 12a, Part 8, Uninsured Motorist Identification Database  
82 Program; and

83 (b) Sections 41-1a-109 and 41-1a-110.

84 (3) The division shall cooperate with the Department of Public Safety in making rules  
85 and developing procedures to use the Uninsured Motorist Identification Database.

86 Section 3. Section **41-1a-1220** is amended to read:

87 **41-1a-1220. Registration reinstatement fee.**

88 (1) At the time application is made for reinstatement or renewal of registration of a  
89 motor vehicle after a revocation of the registration under Subsection 41-1a-110(2) or a

90 motorboat after a revocation of the registration under Subsection 73-18-7.3(3), the applicant  
91 shall pay a registration reinstatement fee of \$100.

92 (2) The fee imposed under Subsection (1):

93 (a) is in addition to any other fee imposed under this chapter; and

94 (b) shall be deposited in the Uninsured Motorist Identification Restricted Account  
95 created in Section 41-12a-806.

96 (3) The division shall waive the registration reinstatement fee imposed under this  
97 section if:

98 (a) (i) the motor vehicle registration was revoked under Subsection 41-1a-110(2)(a)(ii);  
99 [~~and~~] or

100 (ii) the motorboat registration was revoked under Subsection 73-18-7.3(3); and

101 (b) a person had owner's or operator's security in effect for the vehicle at the time of the  
102 alleged violation or on the day following the time limit provided after the second notice under  
103 Subsection 41-12a-804(2).

104 Section 4. Section **41-12a-802** is amended to read:

105 **41-12a-802. Definitions.**

106 As used in this part:

107 (1) "Account" means the Uninsured Motorist Identification Restricted Account created  
108 in Section 41-12a-806.

109 (2) "Database" means the Uninsured Motorist Identification Database created in  
110 Section 41-12a-803.

111 (3) "Designated agent" means the third party the department contracts with under  
112 Section 41-12a-803.

113 (4) "Division" means the Driver License Division created in Section 53-3-103.

114 (5) "Motorboat" has the same meaning as set forth in Section 73-18c-102.

115 [~~(5)~~] (6) "Motor vehicle" has the same meaning as set forth in Section 41-1a-102.

116 [~~(6)~~] (7) "Motor Vehicle Division" means the Motor Vehicle Division of the State Tax  
117 Commission created in Section 41-1a-106.

118 [~~(7)~~] (8) "Program" means the Uninsured Motorist Identification Database Program  
119 created in Section 41-12a-803.

120 Section 5. Section **41-12a-803** is amended to read:

121           **41-12a-803. Program creation -- Administration -- Selection of designated agent**  
122 **-- Duties -- Rulemaking -- Audits.**

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

124           (a) establish an Uninsured Motorist Identification Database to verify compliance with  
125 motor vehicle or motorboat owner's or operator's security requirements under [~~Section~~]  
126 Sections 41-12a-301 and 73-18c-301 and other provisions under this part;

127           (b) assist in reducing the number of uninsured motor vehicles and motorboats on the  
128 highways and waters of the state;

129           (c) assist in increasing compliance with motor vehicle and motorboat registration and  
130 sales and use tax laws;

131           (d) assist in protecting a financial institution's bona fide security interest in a motor  
132 vehicle or motorboat; and

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

134           (2) The program shall be administered by the department with the assistance of the  
135 designated agent and the Motor Vehicle Division.

136           (3) (a) The department shall contract in accordance with Title 63G, Chapter 6, Utah  
137 Procurement Code, with a third party to establish and maintain an Uninsured Motorist  
138 Identification Database for the purposes established under this part.

139           (b) The contract may not obligate the department to pay the third party more money  
140 than is available in the account.

141           (4) (a) The third party under contract under this section is the department's designated  
142 agent, and shall develop and maintain a computer database from the information provided by:

143           (i) insurers under [~~Section~~] Sections 31A-22-315 and 31A-22-1505;

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

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

146           (b) (i) The database shall be developed and maintained in accordance with guidelines  
147 established by the department so that state and local law enforcement agencies and financial  
148 institutions as defined in Section 7-1-103 can efficiently access the records of the database,  
149 including reports useful for the implementation of the provisions of this part.

150           (ii) (A) The reports shall be in a form and contain information approved by the  
151 department.

152 (B) The reports may be made available through the Internet or through other electronic  
153 medium, if the department determines that sufficient security is provided to ensure compliance  
154 with Section 41-12a-805 regarding limitations on disclosure of information in the database.

155 (5) With information provided by the department and the Motor Vehicle Division, the  
156 designated agent shall, at least monthly for submissions under Subsection 31A-22-315(2)(b) or  
157 at least twice a month for submissions under Subsection 31A-22-315(2)(a) or Section  
158 31A-22-1505:

159 (a) update the database with the motor vehicle and motorboat insurance information  
160 provided by the insurers in accordance with Section 31A-22-315; and

161 (b) compare all current motor vehicle and motorboat registrations against the database.

162 (6) The division shall provide the designated agent with the name, date of birth,  
163 address, and driver license number of all persons on the driver license database.

164 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
165 department shall make rules and develop procedures in cooperation with the Motor Vehicle  
166 Division to use the database for the purpose of administering and enforcing this part.

167 (8) (a) The designated agent shall archive computer data files at least semi-annually for  
168 auditing purposes.

169 (b) The internal audit unit of the tax commission provided under Section 59-1-206  
170 shall audit the program at least every three years.

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

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

173 (ii) the accuracy of the designated agent's matching of vehicle and motorboat  
174 registration with insurance data.

175 Section 6. Section **41-12a-804** is amended to read:

176 **41-12a-804. Notice -- Proof -- Revocation of registration -- False statements --**  
177 **Penalties -- Exemptions -- Sales tax enforcement.**

178 (1) If the comparison under Section 41-12a-803 shows that a motor vehicle or  
179 motorboat is not insured for three consecutive months, the Motor Vehicle Division shall direct  
180 that the designated agent provide notice to the owner of the motor vehicle or motorboat that the  
181 owner has 15 days to provide:

182 (a) proof of owner's or operator's security in a form allowed under Subsection

- 183 41-12a-303.2(2)(b) or 73-18c-304(1)(b); or
- 184 (b) proof of exemption from the owner's or operator's security requirements.
- 185 (2) If an owner of a motor vehicle or motorboat fails to provide satisfactory proof of
- 186 owner's or operator's security to the designated agent, the designated agent shall:
- 187 (a) provide a second notice to the owner of the motor vehicle or motorboat that the
- 188 owner now has 15 days to provide:
- 189 (i) proof of owner's or operator's security in a form allowed under Subsection
- 190 41-12a-303.2(2)(b) or 73-18c-304(1)(b); or
- 191 (ii) proof of exemption from the owner's or operator's security requirements;
- 192 (b) for each notice provided, indicate information relating to the owner's failure to
- 193 provide proof of owner's or operator's security in the database; and
- 194 (c) provide this information to state and local law enforcement agencies as requested in
- 195 accordance with the provisions under Section 41-12a-805.
- 196 (3) The Motor Vehicle Division:
- 197 (a) shall revoke the registration upon receiving notification under Subsection
- 198 41-1a-110(2) or 73-18-7.3(3);
- 199 (b) shall provide appropriate notices of the revocation, the legal consequences of
- 200 operating a vehicle or motorboat with revoked registration and without owner's or operator's
- 201 security and instructions on how to get the registration reinstated; and
- 202 (c) may direct the designated agent to provide the notices under this Subsection (3).
- 203 (4) Any action by the Motor Vehicle Division to revoke the registration of a motor
- 204 vehicle or motorboat under this section may be in addition to an action by a law enforcement
- 205 agency to impose the penalties under Section 41-12a-302 [~~or~~], 41-12a-303.2, or 73-18c-302.
- 206 (5) (a) A person may not provide a false or fraudulent statement to the Motor Vehicle
- 207 Division or designated agent.
- 208 (b) In addition to any other penalties, a person who violates Subsection (5)(a) is guilty
- 209 of a class B misdemeanor.
- 210 (6) The department and the Motor Vehicle Division shall direct the designated agent to
- 211 exempt from this section a farm truck that:
- 212 (a) meets the definition of a farm truck under Section 41-1a-102; and
- 213 (b) is registered as a farm truck under [~~Title 41,~~] Chapter 1a, Motor Vehicle Act.

214 (7) This part does not affect other actions or penalties that may be taken or imposed for  
215 violation of the owner's and operator's security requirements of this chapter.

216 (8) If a comparison under Section 41-12a-803 shows that a motor vehicle or motorboat  
217 may not be in compliance with motor vehicle or motorboat registration or sales and use tax  
218 laws, the Motor Vehicle Division may direct that the designated agent provide notice to the  
219 owner of a motor vehicle or motorboat that information exists which indicates the possible  
220 violation.

221 Section 7. Section **41-12a-805** is amended to read:

222 **41-12a-805. Disclosure of insurance information -- Penalty.**

223 (1) Information in the database established under Section 41-12a-803 provided by a  
224 person to the designated agent is considered to be the property of the person providing the  
225 information.

226 (2) The information may not be disclosed from the database under Title 63G, Chapter  
227 2, Government Records Access and Management Act, or otherwise, except as follows:

228 (a) for the purpose of investigating, litigating, or enforcing the owner's or operator's  
229 security requirement under Section 41-12a-301 or 73-18c-301, the designated agent shall verify  
230 insurance information through the state computer network for a state or local government  
231 agency or court;

232 (b) for the purpose of investigating, litigating, or enforcing the owner's or operator's  
233 security requirement under Section 41-12a-301 or 73-18c-301, the designated agent shall, upon  
234 request, issue to any state or local government agency or court a certificate documenting the  
235 insurance information, according to the database, of a specific individual [or], motor vehicle, or  
236 motorboat for the time period designated by the government agency;

237 (c) upon request, the department or its designated agent shall disclose whether or not a  
238 person is an insured individual and the insurance company name to:

239 (i) that individual or, if that individual is deceased, any interested person of that  
240 individual, as defined in Section 75-1-201;

241 (ii) the parent or legal guardian of that individual if the individual is an unemancipated  
242 minor;

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

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



245 (v) a person who submits a notarized release from the insured individual dated no more  
246 than 90 days before the date the request is made; or

247 (vi) a person suffering loss or injury in a motor vehicle or motorboat accident in which  
248 the insured individual is involved, but only as part of an accident report as authorized in  
249 Section 41-12a-202 or 73-18-13;

250 (d) for the purpose of investigating, enforcing, or prosecuting laws or issuing citations  
251 by state or local law enforcement agencies related to the:

252 (i) registration and renewal of registration of a motor vehicle under Title 41, Chapter  
253 1a, Motor Vehicle Act;

254 (ii) registration and renewal of registration of a motorboat under Title 73, Chapter 18,  
255 State Boating Act;

256 [~~(ii)~~] (iii) purchase of a motor vehicle or motorboat under Title 59, Chapter 12, Sales  
257 and Use Tax Act; and

258 [~~(iii)~~] (iv) owner's or operator's security requirements under Section 41-12a-301 or  
259 Section 73-18c-301;

260 (e) upon request of a peace officer acting in an official capacity under the provisions of  
261 Subsection (2)(d), the department or the designated agent shall, upon request, disclose relevant  
262 information for investigation, enforcement, or prosecution;

263 (f) for the purpose of the state auditor, the legislative auditor general, or other auditor  
264 of the state conducting audits of the program;

265 (g) upon request of a financial institution as defined under Section 7-1-103 for the  
266 purpose of protecting the financial institution's bona fide security interest in a motor vehicle or  
267 motorboat; and

268 (h) upon the request of a state or local law enforcement agency for the purpose of  
269 investigating and prosecuting identity theft and other crimes.

270 (3) (a) The department may allow the designated agent to prepare and deliver upon  
271 request, a report on the insurance information of a person [~~or~~], motor vehicle, or motorboat in  
272 accordance with this section.

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

274 (i) a certified copy that is considered admissible in any court proceeding in the same  
275 manner as the original; or

276 (ii) information accessible through the Internet or through other electronic medium if  
277 the department determines that sufficient security is provided to ensure compliance with this  
278 section.

279 (c) The department may allow the designated agent to charge a fee established by the  
280 department under Section 63J-1-504 for each:

- 281 (i) document authenticated, including each certified copy;
- 282 (ii) record accessed by the Internet or by other electronic medium; and
- 283 (iii) record provided to a financial institution under Subsection (2)(g).

284 (4) A person who knowingly releases or discloses information from the database for a  
285 purpose other than those authorized in this section or to a person who is not entitled to it is  
286 guilty of a third degree felony.

287 (5) An insurer is not liable to any person for complying with Section 31A-22-315 or  
288 31A-22-1505 by providing information to the designated agent.

289 (6) Neither the state nor the department's designated agent is liable to any person for  
290 gathering, managing, or using the information in the database as provided in Section  
291 31A-22-315 or 31A-22-1505 and this part.

292 Section 8. Section **41-12a-806** is amended to read:

293 **41-12a-806. Restricted Account -- Creation -- Funding -- Interest -- Purposes.**

294 (1) There is created within the Transportation Fund a restricted account known as the  
295 "Uninsured Motorist Identification Restricted Account."

296 (2) The account consists of money generated from the following revenue sources:

297 (a) money received by the state under Section 41-1a-1218 or 73-18-7.5, the uninsured  
298 motorist identification fee;

299 (b) money received by the state under Section 41-1a-1220; and

300 (c) appropriations made to the account by the Legislature.

301 (3) (a) The account shall earn interest.

302 (b) All interest earned on account money shall be deposited into the account.

303 (4) Money shall be appropriated from the account by the Legislature to:

304 (a) the department to fund the contract with the designated agent;

305 (b) the department to offset the costs to state and local law enforcement agencies of  
306 using the information for the purposes authorized under this part; and

307 (c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking  
308 and reinstating vehicle registrations under Subsection 41-1a-110(2)(a)(ii) or motorboat  
309 registrations under Subsection 73-18-7.3(3).

310 Section 9. Section **73-18-7.3** is amended to read:

311 **73-18-7.3. Suspension or revocation of a registration or certificate of title.**

312 (1) As used in this section:

313 (a) "Authorized agent" means the person authorized by the division to act as its agent  
314 for the registration of motorboats and sailboats in accordance with Section 73-18-7.

315 (b) "Designated agent" means the Department of Public Safety's designated agent  
316 selected in accordance with Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification  
317 Database Program.

318 (2) The division or its authorized agent may suspend or revoke the registration or  
319 certificate of title of a motorboat, sailboat, or outboard motor if:

320 [~~1~~] (a) the division or its authorized agent determines that the registration or  
321 certificate of title was fraudulently or erroneously issued;

322 [~~2~~] (b) the division or its authorized agent determines that a registered motorboat or  
323 sailboat is mechanically unfit or unseaworthy for operation on the waters of this state;

324 [~~3~~] (c) a registered motorboat or sailboat has been dismantled or wrecked so that it  
325 loses its character as a vessel;

326 [~~4~~] (d) the division or its authorized agent determines that the required registration or  
327 titling fee has not been paid or is not paid upon reasonable notice and demand;

328 [~~5~~] (e) a registration decal or number is knowingly displayed upon a motorboat or  
329 sailboat other than the one for which the decal or number was issued;

330 [~~6~~] (f) the division or its authorized agent determines that the owner has committed  
331 any offense under this chapter or Title 41, Chapter 1a, Part 5, Titling Requirements, involving  
332 the registration or certificate of title of a motorboat, sailboat, or outboard motor; or

333 [~~7~~] (g) the division or authorized agent is so authorized under any other provision of  
334 law.

335 (3) The division or authorized agent shall revoke the registration of a motorboat if the  
336 division or authorized agent receives notification by the designated agent that the owner of a  
337 motorboat:

338 (a) has failed to provide satisfactory proof of owner's or operator's security to the  
339 designated agent after the second notice provided under Section 41-12a-804; or

340 (b) provided a false or fraudulent statement to the designated agent.

341 (4) The division or authorized agent shall charge a registration reinstatement fee under  
342 Section 41-1a-1220, if the registration is revoked under Subsection (3).

343 Section 10. Section **73-18-7.5** is enacted to read:

344 **73-18-7.5. Uninsured motorist identification fee for tracking motorboat insurance**  
345 **-- Exemption -- Deposit.**

346 (1) (a) Except as provided in Subsection (1)(b), at the time application is made for  
347 registration or renewal of registration of a motorboat under this chapter, the applicant shall pay  
348 an uninsured motorist identification fee of \$1 on each motorboat.

349 (b) A motorboat that is exempt from registration under Section 73-18-9 is exempt from  
350 the fee required under Subsection (1)(a).

351 (2) The revenue generated under this section shall be deposited in the Uninsured  
352 Motorist Identification Restricted Account created in Section 41-12a-806.

353 Section 11. **Effective date.**

354 This bill takes effect on October 1, 2012.

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**Legislative Review Note**  
as of 2-14-12 9:03 AM

**Office of Legislative Research and General Counsel**