

Senator John L. Valentine proposes the following substitute bill:

EMERGENCY VEHICLE OPERATOR DUTY OF CARE

REVISIONS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad L. Dee

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill modifies the Traffic Code by amending provisions relating to the duty of care for certain emergency vehicle operators.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ provides that the operator of a marked authorized emergency vehicle owes no duty of care to a person who is:
 - a suspect in the commission of a crime and evading, fleeing, or otherwise attempting to elude the operator of a marked authorized emergency vehicle; or
 - in a motor vehicle with the suspect, unless it is proven by a preponderance of the evidence that the person's presence in the motor vehicle was involuntary and the person's participation in evading, fleeing, or attempting to elude was involuntary;
- ▶ provides that an operator of a marked authorized emergency vehicle may be held liable for a fleeing suspect's injuries in certain circumstances;
- ▶ provides that if an operator of a marked authorized emergency vehicle complies



26 with certain requirements while operating the marked authorized emergency vehicle, the
27 operator shall be deemed to have met the operator's duty to act as a reasonably prudent
28 emergency vehicle operator under the circumstances; and

29 ▶ makes technical corrections.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **41-6a-212**, as last amended by Laws of Utah 2008, Chapter 382



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

39 Section 1. Section **41-6a-212** is amended to read:

40 **41-6a-212. Emergency vehicles -- Policy regarding vehicle pursuits --**

41 **Applicability of traffic law to highway work vehicles -- Exemptions.**

42 (1) As used in this section, "marked authorized emergency vehicle" means an
43 authorized emergency vehicle that:

44 (a) has emergency lights that comply with Section 41-6a-1601 affixed to the top of the
45 vehicle; or

46 (b) is displaying an identification mark designating the vehicle as the property of an
47 entity that is authorized to operate emergency vehicles in a conspicuous place on both sides of
48 the vehicle.

49 ~~(1)~~ (2) Subject to Subsections ~~(2)~~ (3) through ~~(5)~~ (6), the operator of an authorized
50 emergency vehicle may exercise the privileges granted under this section when:

- 51 (a) responding to an emergency call;
- 52 (b) in the pursuit of an actual or suspected violator of the law; or
- 53 (c) responding to but not upon returning from a fire alarm.

54 ~~(2)~~ (3) The operator of an authorized emergency vehicle may:

- 55 (a) park or stand, irrespective of the provisions of this chapter;
- 56 (b) proceed past a red or stop signal or stop sign, but only after slowing down as may

57 be necessary for safe operation;

58 (c) exceed the maximum speed limits, unless prohibited by a local highway authority
59 under Section 41-6a-208; or

60 (d) disregard regulations governing direction of movement or turning in specified
61 directions.

62 [~~3~~] (4) (a) Except as provided in Subsection [~~3~~] (4)(b), privileges granted under this
63 section to the operator of an authorized emergency vehicle, who is not involved in a vehicle
64 pursuit, apply only when:

65 (i) the operator of the vehicle sounds an audible signal under Section 41-6a-1625; or

66 (ii) uses a visual signal with emergency lights in accordance with rules made under
67 Section 41-6a-1601, which is visible from in front of the vehicle.

68 (b) An operator of an authorized emergency vehicle may exceed the maximum speed
69 limit when engaged in normal patrolling activities with the purpose of identifying and
70 apprehending violators.

71 [~~4~~] (5) Privileges granted under this section to the operator of an authorized
72 emergency vehicle involved in any vehicle pursuit apply only when:

73 (a) the operator of the vehicle:

74 (i) sounds an audible signal under Section 41-6a-1625; and

75 (ii) uses a visual signal with emergency lights in accordance with rules made under
76 Section 41-6a-1601, which is visible from in front of the vehicle;

77 (b) the public agency employing the operator of the vehicle has, in effect, a written
78 policy which describes the manner and circumstances in which any vehicle pursuit should be
79 conducted and terminated;

80 (c) the operator of the vehicle has been trained in accordance with the written policy
81 described in Subsection [~~4~~] (5)(b); and

82 (d) the pursuit policy of the public agency is in conformance with standards established
83 under Subsection [~~5~~] (6).

84 [~~5~~] (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
85 Act, the Department of Public Safety shall make rules providing minimum standards for all
86 emergency pursuit policies that are adopted by public agencies authorized to operate
87 emergency pursuit vehicles.

88 ~~[(6) The]~~ (7) (a) Except as provided in Subsection (7)(b), the privileges granted under
89 this section do not relieve the operator of an authorized emergency vehicle of the duty to act as
90 a reasonably prudent emergency vehicle operator ~~[in like]~~ under the circumstances.

91 (b) The operator of a marked authorized emergency vehicle owes no duty of care under
92 this Subsection (7) to a person who is:

93 (i) (A) a suspect in the commission of a crime; and

94 (B) evading, fleeing, or otherwise attempting to elude the operator of a marked
95 authorized emergency vehicle; or

96 (ii) in a motor vehicle with the suspect described in Subsection (7)(b)(i), unless it is
97 proven by a preponderance of the evidence that:

98 (A) the person's presence in the vehicle was involuntary; and

99 (B) the person's participation in evading, fleeing, or attempting to elude was
100 involuntary.

101 (c) (i) Notwithstanding Subsection (7)(b), an operator of a marked authorized
102 emergency vehicle may be held liable for a fleeing suspect's injuries if the operator of a marked
103 authorized emergency vehicle had actual intent to cause harm to the fleeing suspect in an act
104 that was unrelated to the legitimate object of the arrest.

105 (ii) "Actual intent" under this Subsection (7)(c) means a malicious motive to cause
106 injury, not merely an intent to do the act resulting in the injury.

107 (d) If an operator of a marked authorized emergency vehicle complies with the
108 requirements described in Subsections (5) and (6) while operating the marked authorized
109 emergency vehicle, the operator shall be deemed to have met the operator's duty to act as a
110 reasonably prudent emergency vehicle operator under the circumstances.

111 ~~[(7)]~~ (8) Except for Sections 41-6a-210, 41-6a-502, and 41-6a-528, this chapter does
112 not apply to persons, motor vehicles, and other equipment while actually engaged in work on
113 the surface of a highway.