

1 **UNINSURED MOTORIST PROVISIONS**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Lyle W. Hillyard**

5 House Sponsor: Jack R. Draxler

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions relating to uninsured motorists.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ provides that the Motor Vehicle Division or a peace officer shall seize and take
13 possession of any vehicle ~~↳ [vessel, or outboard motor] ←~~ that is being operated on a
14 highway without owner's or operator's security in effect for the vehicle except in
15 certain circumstances;

16 ▶ provides that money in the Uninsured Motorist Identification Restricted Account
17 shall be appropriated to the Department of Public Safety to reimburse a person for
18 the costs of towing and storing the person's vehicle in certain circumstances;

19 ▶ requires the Department of Public Safety to hold a hearing to determine whether a
20 vehicle was wrongfully impounded;

21 ▶ grants the Department of Public Safety rulemaking authority to make rules
22 establishing procedures for a person to apply for a reimbursement; and

23 ▶ makes technical corrections.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 This bill takes effect on January 1, 2015.



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **41-1a-1101**, as last amended by Laws of Utah 2011, Chapter 24631 **41-1a-1103**, as last amended by Laws of Utah 2010, Chapter 29532 **41-12a-806**, as last amended by Laws of Utah 2008, Chapter 322

33

34 *Be it enacted by the Legislature of the state of Utah:*35 Section 1. Section **41-1a-1101** is amended to read:36 **41-1a-1101. Seizure -- Circumstances where permitted -- Impound lot standards.**37 (1) ~~[(a)]~~ The division or any peace officer, without a warrant, may seize and take
38 possession of any vehicle, vessel, or outboard motor:39 ~~[(i)]~~ (a) that the division or the peace officer has reason to believe has been stolen;40 ~~[(ii)]~~ (b) on which any identification number has been defaced, altered, or obliterated;41 ~~[(iii)]~~ (c) that has been abandoned in accordance with Section **41-6a-1408**;42 ~~[(iv)]~~ (d) for which the applicant has written a check for registration or title fees that
43 has not been honored by the applicant's bank and that is not paid within 30 days;44 ~~[(v)]~~ (e) that is placed on the water with improper registration;45 ~~[(vi)]~~ (f) that is being operated on a highway:46 ~~[(A)]~~ (i) with registration that has been expired for more than three months;47 ~~[(B)]~~ (ii) having never been properly registered by the current owner; or48 ~~[(C)]~~ (iii) with registration that is suspended or revoked; or49 ~~[(D)]~~ subject to the restriction in Subsection (1)(b), without owner's or operator's
50 security in effect for the vehicle as required under Section **41-12a-301**; or51 ~~[(vii)-(A)]~~ (g) (i) that the division or the peace officer has reason to believe has been
52 involved in an accident described in Section **41-6a-401**, **41-6a-401.3**, or **41-6a-401.5**; and53 ~~[(B)]~~ (ii) whose operator did not remain at the scene of the accident until the operator
54 fulfilled the requirements described in Section **41-6a-401** or **41-6a-401.7**.55 (2) (a) Subject to the restriction in Subsection (2)(b), the division or any peace officer,
56 without a warrant, shall seize and take possession of any vehicle ~~Ŝ~~ **↳ [vessel, or outboard**56a **motor] ←Ŝ** that

57 is being operated on a highway without owner's or operator's security in effect for the vehicle

58 as required under Section **41-12a-301** unless the division or any peace officer makes a

59 reasonable determination that ~~§~~ → :

59a (a) ←§ the seizure of the vehicle ~~§~~ → [,vessel, or outboard motor] ←§ would
 60 present a public safety concern to the operator or any of the occupants in the vehicle ~~§~~ → [,vessel, or
 61 outboard motor] ; or

61a (b) the impoundment of the vehicle would prevent the division or the peace officer from
 61b addressing other public safety considerations ←§ .

62 (b) The division or any peace officer may not seize and take possession of a vehicle
 63 under Subsection ~~[(1)(a)(vi)(D)]~~ (2)(a):

64 (i) if the operator of the vehicle is not carrying evidence of owner's or operator's
 65 security as defined in Section 41-12a-303.2 in the vehicle unless the division or peace officer
 66 verifies that owner's or operator's security is not in effect for the vehicle through the Uninsured
 67 Motorist Identification Database created in accordance with Section 41-12a-803[-]; or

68 (ii) if the operator of the vehicle is carrying evidence of owner's or operator's security
 69 as defined in Section 41-12a-303.2 in the vehicle and the Uninsured Motorist Identification
 70 Database created in accordance with Section 41-12a-803 indicates that the owner's or operator's
 71 security is not in effect for the vehicle, unless the division or a peace officer makes a
 72 reasonable attempt to independently verify that owner's or operator's security is not in effect for
 73 the vehicle.

74 ~~[(2)]~~ (3) If necessary for the transportation of a seized vessel, the vessel's trailer may be
 75 seized to transport and store the vessel.

76 ~~[(3)]~~ (4) Any peace officer seizing or taking possession of a vehicle, vessel, or
 77 outboard motor under this section shall comply with the provisions of Section 41-6a-1406.

78 ~~[(4)]~~ (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
 79 Act, the commission shall make rules setting standards for public garages, impound lots, and
 80 impound yards that may be used by peace officers and the division.

81 (b) The standards shall be equitable, reasonable, and unrestrictive as to the number of
 82 public garages, impound lots, or impound yards per geographical area.

83 ~~[(5)]~~ (6) (a) Except as provided under Subsection ~~[(5)]~~ (6)(b), a person may not operate
 84 or allow to be operated a vehicle stored in a public garage, impound lot, or impound yard
 85 regulated under this part without prior written permission of the owner of the vehicle.

86 (b) Incidental and necessary operation of a vehicle to move the vehicle from one
 87 parking space to another within the facility and that is necessary for the normal management of
 88 the facility is not prohibited under Subsection ~~[(5)]~~ (6)(a).

89 ~~[(6)]~~ (7) A person who violates the provisions of Subsection ~~[(5)]~~ (6) is guilty of a

90 class C misdemeanor.

91 [~~(7)~~] (8) The division or the peace officer who seizes a vehicle shall record the mileage
92 shown on the vehicle's odometer at the time of seizure, if:

93 (a) the vehicle is equipped with an odometer; and

94 (b) the odometer reading is accessible to the division or the peace officer.

95 Section 2. Section **41-1a-1103** is amended to read:

96 **41-1a-1103. Sale.**

97 (1) If the owner or lienholder of a seized vehicle, vessel, or outboard motor does not
98 recover the vehicle, vessel, or outboard motor within 30 days from the date of seizure, or if the
99 division is unable to determine the owner or lienholder through reasonable efforts, the division
100 shall sell the vehicle, vessel, or outboard motor.

101 (2) The sale shall:

102 (a) be held in the form of a public auction at the place of storage; and

103 (b) at the discretion of the division, be conducted by:

104 (i) an authorized representative of the division; or

105 (ii) a public garage, impound lot, or impound yard that:

106 (A) is authorized by the division;

107 (B) meets the standards under Subsection **41-1a-1101** [~~(4)~~](5); and

108 (C) complies with the requirements of Section **72-9-603**.

109 (3) At least five days prior to the date set for sale, the division shall publish a notice of
110 sale setting forth the date, time, and place of sale and a description of the vehicle, vessel, or
111 outboard motor to be sold:

112 (a) on the division's website; and

113 (b) as required in Section **45-1-101**.

114 (4) At the time of sale the division or other person authorized to conduct the sale shall
115 tender to the highest bidder a certificate of sale conveying all rights, title, and interest in the
116 vehicle, vessel, or outboard motor.

117 (5) The proceeds from the sale of a vehicle, vessel, or outboard motor under this
118 section shall be distributed as provided under Section **41-1a-1104**.

119 (6) If the owner or lienholder of a vehicle, vessel, or outboard motor seized under
120 Section **41-1a-1101** and subsequently released by the division fails to take possession of the

121 vehicle, vessel, or outboard motor and satisfy the amount due to the place of storage within 30
122 days from the date of release, the division shall renotify the owner or lienholder and sell the
123 vehicle, vessel, or outboard motor, in accordance with this section, 30 days from the date of the
124 notice.

125 Section 3. Section **41-12a-806** is amended to read:

126 **41-12a-806. Restricted account -- Creation -- Funding -- Interest -- Purposes.**

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

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

130 (a) money received by the state under Section [41-1a-1218](#), the uninsured motorist
131 identification fee;

132 (b) money received by the state under Section [41-1a-1220](#); and

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

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

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

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

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

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

140 (c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking
141 and reinstating vehicle registrations under Subsection [41-1a-110\(2\)\(a\)\(ii\)](#)~~[-]~~; and

142 (d) the department to reimburse a person for the costs of towing and storing the
143 person's vehicle if:

144 (i) the person's vehicle was impounded in accordance with Subsection [41-1a-1101\(2\)](#);

145 (ii) the impounded vehicle had owner's or operator's security in effect for the vehicle at
146 the time of the impoundment;

147 (iii) the database indicated that owner's or operator's security was not in effect for the
148 impounded vehicle; and

149 (iv) the department determines that the person's vehicle was wrongfully impounded.

150 (5) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures
151 Act, the department shall hold a hearing to determine whether a person's vehicle was

152 wrongfully impounded under Subsection [41-1a-1101\(2\)](#).

153 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
154 division shall make rules establishing procedures for a person to apply for a reimbursement
155 under Subsection (4)(d).

155a **Ŝ→ (c) A person is not eligible for a reimbursement under Subsection (4)(d) unless the**
155b **person applies for the reimbursement within six months from the date that the motor vehicle**
155c **was impounded. ←Ŝ**

156 Section 4. **Effective date.**

157 This bill takes effect on January 1, 2015.

Legislative Review Note
as of 2-20-14 8:26 AM

Office of Legislative Research and General Counsel