

**AUTOMOBILE INSURANCE REGISTRY AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lincoln Fillmore**

House Sponsor: Norman K Thurston

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**LONG TITLE**

**General Description:**

This bill amends provisions related to motor vehicle insurance.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions related to evidence of a motor vehicle owner's or operator's security;
- ▶ permits a motor vehicle owner to bring a cause of action against a public entity that employs a law enforcement officer; and
- ▶ amends post-accident security requirements.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**41-12a-303.2**, as last amended by Laws of Utah 2016, Chapters 303 and 356

**41-12a-501**, as last amended by Laws of Utah 2005, Chapter 2

**63G-7-301**, as last amended by Laws of Utah 2015, Chapter 342

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



28 Section 1. Section 41-12a-303.2 is amended to read:

29 **41-12a-303.2. Evidence of owner's or operator's security to be carried when**  
30 **operating motor vehicle -- Defense -- Penalties.**

31 (1) As used in this section:

32 (a) "Division" means the Motor Vehicle Division of the State Tax Commission.

33 (b) "Registration materials" means the evidences of motor vehicle registration,  
34 including all registration cards, license plates, temporary permits, and nonresident temporary  
35 permits.

36 (2) (a) (i) A person operating a motor vehicle shall:

37 (A) have in the person's immediate possession evidence of owner's or operator's  
38 security for the motor vehicle the person is operating; and

39 (B) display it upon demand of a peace officer.

40 (ii) A person is exempt from the requirements of Subsection (2)(a)(i) if the person is  
41 operating:

42 (A) a government-owned or leased motor vehicle; or

43 (B) an employer-owned or leased motor vehicle and is driving it with the employer's  
44 permission.

45 (iii) A person operating a vehicle that is owned by a rental company, as defined in  
46 Section 31A-22-311, may comply with Subsection (2)(a)(i) by having in the person's  
47 immediate possession, or displaying, the rental vehicle's rental agreement, as defined in Section  
48 31A-22-311.

49 (b) Evidence of owner's or operator's security includes any one of the following:

50 (i) a copy of the operator's valid:

51 (A) insurance policy;

52 (B) insurance policy declaration page;

53 (C) binder notice;

54 (D) renewal notice; or

55 (E) card issued by an insurance company as evidence of insurance;

56 (ii) a certificate of insurance issued under Section 41-12a-402;

57 (iii) a certified copy of a surety bond issued under Section 41-12a-405;

58 (iv) a certificate of the state treasurer issued under Section 41-12a-406;

- 59 (v) a certificate of self-funded coverage issued under Section [41-12a-407](#); [~~or~~]
- 60 (vi) information that the vehicle or driver is insured from the Uninsured Motorist  
61 Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured  
62 Motorist Identification Database Program[~~;~~]; or
- 63 (vii) (A) information that the vehicle is operated with a temporary permit issued and  
64 displayed as described in Section [41-1a-211](#) or [41-3-302](#);
- 65 (B) evidence that the vehicle was purchased within the previous 30 days; and  
66 (C) evidence of an existing insurance policy issued to the owner of the vehicle.
- 67 (c) A card issued by an insurance company as evidence of owner's or operator's  
68 security under Subsection (2)(b)(i)(E) on or after July 1, 2014, may not display the owner's or  
69 operator's address on the card.
- 70 (d) (i) A person may provide to a peace officer evidence of owner's or operator's  
71 security described in this Subsection (2) in:
- 72 (A) a hard copy format; or  
73 (B) an electronic format using a mobile electronic device.
- 74 (ii) If a person provides evidence of owner's or operator's security in an electronic  
75 format using a mobile electronic device under this Subsection (2)(d), the peace officer viewing  
76 the owner's or operator's security on the mobile electronic device may not view any other  
77 content on the mobile electronic device.
- 78 (iii) Notwithstanding any other provision under this section, a peace officer is not  
79 subject to civil liability or criminal penalties under this section if the peace officer inadvertently  
80 views content other than the evidence of owner's or operator's security on the mobile electronic  
81 device.
- 82 (e) (i) Evidence of owner's or operator's security from the Uninsured Motorist  
83 Identification Database Program described under Subsection (2)(b)(vi) supercedes any  
84 evidence of owner's or operator's security described under Subsection (2)(b)(i)(D) or (E).
- 85 (ii) A peace officer may not cite or arrest a person for a violation of Subsection (2)(a) if  
86 the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a,  
87 Part 8, Uninsured Motorist Identification Database Program, information indicates that the  
88 vehicle or driver is insured.
- 89 (3) It is an affirmative defense to a charge under this section that the person had

90 owner's or operator's security in effect for the vehicle the person was operating at the time of  
91 the person's citation or arrest.

92 (4) (a) Evidence of owner's or operator's security as defined under Subsection (2)(b) or  
93 a written statement from an insurance producer or company verifying that the person had the  
94 required motor vehicle insurance coverage on the date specified is considered proof of owner's  
95 or operator's security for purposes of Subsection (3) and Section 41-12a-804.

96 (b) The court considering a citation issued under this section shall allow the evidence  
97 or a written statement under Subsection (4)(a) and a copy of the citation to be faxed or mailed  
98 to the clerk of the court to satisfy Subsection (3).

99 (c) The notice under Section 41-12a-804 shall specify that the written statement under  
100 Subsection (4)(a) and a copy of the notice shall be faxed or mailed to the designated agent to  
101 satisfy the proof of owner's or operator's security required under Section 41-12a-804.

102 (5) A violation of this section is an infraction, and the fine shall be not less than:

103 (a) \$400 for a first offense; and

104 (b) \$1,000 for a second and subsequent offense within three years of a previous  
105 conviction or bail forfeiture.

106 (6) Upon receiving notification from a court of a conviction for a violation of this  
107 section, the department:

108 (a) shall suspend the person's driver license; and

109 (b) may not renew the person's driver license or issue a driver license to the person  
110 until the person gives the department proof of owner's or operator's security.

111 (i) This proof of owner's or operator's security shall be given by any of the ways  
112 required under Section 41-12a-401.

113 (ii) This proof of owner's or operator's security shall be maintained with the department  
114 for a three-year period.

115 (iii) An insurer that provides a certificate of insurance as provided under Section  
116 41-12a-402 or 41-12a-403 may not terminate the insurance policy unless notice of termination  
117 is filed with the department no later than 10 days after termination as required under Section  
118 41-12a-404.

119 (iv) If a person who has canceled the certificate of insurance applies for a license  
120 within three years from the date proof of owner's or operator's security was originally required,

121 the department shall refuse the application unless the person reestablishes proof of owner's or  
122 operator's security and maintains the proof for the remainder of the three-year period.

123 (7) A person may bring a civil cause of action in a court of competent jurisdiction  
124 against the public entity that employs a law enforcement officer for the law enforcement  
125 officer's failure to comply with a provision of Subsection (2)(e)(ii).

126 Section 2. Section **41-12a-501** is amended to read:

127 **41-12a-501. Post-accident security.**

128 (1) (a) Unless excepted under Subsection (2), the operator of a motor vehicle involved  
129 in an accident in the state and any owner who has not previously satisfied the requirement of  
130 security under Section **41-12a-301** shall file post-accident security with the department for the  
131 benefit of persons obtaining judgments against the operator on account of bodily injury, death,  
132 or property damage caused by the accident.

133 (b) The security shall be in an amount determined by the department to be sufficient to  
134 satisfy judgments arising from bodily injury, death, or property damage resulting from the  
135 accident that may be recovered against the operator, but may not exceed the minimum single  
136 limit under Subsection **31A-22-304(2)**.

137 (c) The department shall determine the amount of post-accident security on the basis of  
138 reports and other evidence submitted to the department by interested parties, including officials  
139 investigating the accident.

140 (d) In setting the amount of post-accident security, the department may not take into  
141 account alleged damages resulting from pain and suffering.

142 (e) Persons who fail to file required post-accident security are subject to the penalties  
143 under Subsection (3).

144 (2) The operator is exempted from the post-accident requirement under Subsection (1)  
145 if any of the following conditions are satisfied:

146 (a) No bodily injury, death, or damage to the property of one person in excess of the  
147 damage limit specified under Section **41-6a-401** resulted from the accident.

148 (b) No injury, death, or property damage was suffered by any person other than the  
149 owner or operator.

150 (c) The owner of the motor vehicle was in compliance with the owner's security  
151 requirement under Section **41-12a-301** at the time of the accident and the operator had

152 permission from the owner to operate the motor vehicle.

153 (d) The operator was in compliance with the operator's security requirement under  
154 Section [41-12a-301](#) at the time of the accident.

155 (e) The operator has filed satisfactory evidence with the department that the operator  
156 has been released from liability, has been finally adjudicated not to be liable, or has executed a  
157 duly acknowledged written agreement providing for the payment of an agreed amount in  
158 installments with respect to all claims for injuries or damages resulting from the accident and is  
159 not in default on that agreement.

160 (f) The motor vehicle involved in the accident was operated by a nonresident who had  
161 an insurance policy or bond covering the accident, but not fully complying with the policy  
162 provision requirements under Section [31A-22-302](#), if the policy or bond is sufficient to provide  
163 full recovery for claimants and the policy or bond is issued by an insurer licensed in the state.

164 (g) The operator at the time of the accident was operating a motor vehicle owned or  
165 leased by the operator's employer and driven with the employer's permission.

166 (h) Evidence as to the extent of injuries or property damage caused by the accident has  
167 not been submitted by or on behalf of any person affected by the accident within [~~six months~~]  
168 two years following the date of the accident.

169 (i) The motor vehicle was legally parked at the time of the accident.

170 (j) The motor vehicle was an emergency vehicle acting in the line of duty at the time of  
171 the accident.

172 (k) The motor vehicle involved in the accident is owned by the United States, this state,  
173 or any political subdivision of this state, if the operator was using the vehicle with the  
174 permission of the owner.

175 (l) The motor vehicle was legally stopped at a stop sign, traffic signal, or at the  
176 direction of a peace officer at the time of the accident.

177 (3) (a) If an operator who is required to file post-accident security under Subsection (1)  
178 does not do so within 10 days after receiving notice of the requirement of security, the  
179 department shall suspend the driver's license of the operator and all registrations of the owner,  
180 if he is a resident of the state.

181 (b) If the operator is not a resident of Utah, the department shall suspend the privilege  
182 of operating a motor vehicle within the state and of using, in the state, any owned motor

183 vehicle.

184 (c) Notice of these suspensions shall be sent to the owner or operator no less than 15  
185 days prior to the effective date of the suspension.

186 Section 3. Section **63G-7-301** is amended to read:

187 **63G-7-301. Waivers of immunity.**

188 (1) (a) Immunity from suit of each governmental entity is waived as to any contractual  
189 obligation.

190 (b) Actions arising out of contractual rights or obligations are not subject to the  
191 requirements of Sections [63G-7-401](#), [63G-7-402](#), [63G-7-403](#), or [63G-7-601](#).

192 (c) The Division of Water Resources is not liable for failure to deliver water from a  
193 reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development  
194 Act, if the failure to deliver the contractual amount of water is due to drought, other natural  
195 condition, or safety condition that causes a deficiency in the amount of available water.

196 (2) Immunity from suit of each governmental entity is waived:

197 (a) as to any action brought to recover, obtain possession of, or quiet title to real or  
198 personal property;

199 (b) as to any action brought to foreclose mortgages or other liens on real or personal  
200 property, to determine any adverse claim on real or personal property, or to obtain an  
201 adjudication about any mortgage or other lien that the governmental entity may have or claim  
202 on real or personal property;

203 (c) as to any action based on the negligent destruction, damage, or loss of goods,  
204 merchandise, or other property while it is in the possession of any governmental entity or  
205 employee, if the property was seized for the purpose of forfeiture under any provision of state  
206 law;

207 (d) subject to Subsection [63G-7-302](#)(1), as to any action brought under the authority of  
208 Utah Constitution, Article I, Section 22, for the recovery of compensation from the  
209 governmental entity when the governmental entity has taken or damaged private property for  
210 public uses without just compensation;

211 (e) subject to Subsection [63G-7-302](#)(2), as to any action brought to recover attorney  
212 fees under Sections [63G-2-405](#) and [63G-2-802](#);

213 (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees

214 Act;

215 (g) as to any action brought to obtain relief from a land use regulation that imposes a  
216 substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious  
217 Land Use Act;

218 (h) except as provided in Subsection [63G-7-201\(3\)](#), as to any injury caused by:

219 (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley,  
220 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

221 (ii) any defective or dangerous condition of a public building, structure, dam, reservoir,  
222 or other public improvement; [~~and~~]

223 (i) subject to Subsection [63G-7-201\(4\)](#), as to any injury proximately caused by a  
224 negligent act or omission of an employee committed within the scope of employment[-]; or

225 (j) as to any action brought against a public entity that employs a law enforcement  
226 officer for failing to comply with a provision of Section [41-12a-303.2](#).

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**