

Senator Lincoln Fillmore proposes the following substitute bill:

AUTOMOBILE INSURANCE REGISTRY AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: Norman K Thurston

LONG TITLE

General Description:

This bill amends provisions related to motor vehicle insurance.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to a peace officer's seizure of a motor vehicle operated without insurance coverage;
- ▶ amends provisions related to evidence of a motor vehicle owner's or operator's security; and
- ▶ amends post-accident security requirements.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-1a-1101, as last amended by Laws of Utah 2014, Chapter 382

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



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

Section 1. Section **41-1a-1101** is amended to read:

41-1a-1101. Seizure -- Circumstances where permitted -- Impound lot standards.

(1) The division or any peace officer, without a warrant, may seize and take possession of any vehicle, vessel, or outboard motor:

- (a) that the division or the peace officer has reason to believe has been stolen;
- (b) on which any identification number has been defaced, altered, or obliterated;
- (c) that has been abandoned in accordance with Section [41-6a-1408](#);
- (d) for which the applicant has written a check for registration or title fees that has not been honored by the applicant's bank and that is not paid within 30 days;
- (e) that is placed on the water with improper registration;
- (f) that is being operated on a highway:
 - (i) with registration that has been expired for more than three months;
 - (ii) having never been properly registered by the current owner; or
 - (iii) with registration that is suspended or revoked; or
- (g) (i) that the division or the peace officer has reason to believe has been involved in an accident described in Section [41-6a-401](#), [41-6a-401.3](#), or [41-6a-401.5](#); and
 - (ii) whose operator did not remain at the scene of the accident until the operator fulfilled the requirements described in Section [41-6a-401](#) or [41-6a-401.7](#).

(2) (a) Subject to the restriction in Subsection (2)(b), the division or any peace officer, without a warrant, ~~[staff]~~ may seize and take possession of any vehicle that is being operated on a highway without owner's or operator's security in effect for the vehicle as required under Section [41-12a-301](#) ~~[unless the division or any peace officer makes a reasonable determination that:]~~.

~~[(i) the seizure of the vehicle would present a public safety concern to the operator or any of the occupants in the vehicle; or]~~

~~[(ii) the impoundment of the vehicle would prevent the division or the peace officer from addressing other public safety considerations.]~~

(b) The division or any peace officer may not seize and take possession of a vehicle under Subsection (2)(a):

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

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

67 (3) If necessary for the transportation of a seized vessel, the vessel's trailer may be
68 seized to transport and store the vessel.

69 (4) Any peace officer seizing or taking possession of a vehicle, vessel, or outboard
70 motor under this section shall comply with the provisions of Section 41-6a-1406.

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

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

76 (6) (a) Except as provided under Subsection (6)(b), a person may not operate or allow
77 to be operated a vehicle stored in a public garage, impound lot, or impound yard regulated
78 under this part without prior written permission of the owner of the vehicle.

79 (b) Incidental and necessary operation of a vehicle to move the vehicle from one
80 parking space to another within the facility and that is necessary for the normal management of
81 the facility is not prohibited under Subsection (6)(a).

82 (7) A person who violates the provisions of Subsection (6) is guilty of a class C
83 misdemeanor.

84 (8) The division or the peace officer who seizes a vehicle shall record the mileage
85 shown on the vehicle's odometer at the time of seizure, if:

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

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

88 Section 2. Section 41-12a-303.2 is amended to read:

89 **41-12a-303.2. Evidence of owner's or operator's security to be carried when**
90 **operating motor vehicle -- Defense -- Penalties.**

91 (1) As used in this section:

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

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

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

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

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

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

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

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

105 (iii) A person operating a vehicle that is owned by a rental company, as defined in
106 Section 31A-22-311, may comply with Subsection (2)(a)(i) by having in the person's
107 immediate possession, or displaying, the rental vehicle's rental agreement, as defined in Section
108 31A-22-311.

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

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

111 (A) insurance policy;

112 (B) insurance policy declaration page;

113 (C) binder notice;

114 (D) renewal notice; or

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

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

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

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

119 (v) a certificate of self-funded coverage issued under Section [41-12a-407](#); ~~or~~
120 (vi) information that the vehicle or driver is insured from the Uninsured Motorist
121 Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured
122 Motorist Identification Database Program~~[-]~~; or

123 (vii) (A) information that the vehicle is operated with a temporary permit issued and
124 displayed as described in Section [41-1a-211](#) or [41-3-302](#);

125 (B) evidence that the vehicle was purchased within the previous 30 days; and

126 (C) evidence of an existing insurance policy issued to the owner of the vehicle.

127 (c) Evidence of insurance provided under Subsection (2)(b) shall not create insurance
128 coverage not specifically provided for in the vehicle owner's insurance policy.

129 ~~[(e)]~~ (d) A card issued by an insurance company as evidence of owner's or operator's
130 security under Subsection (2)(b)(i)(E) on or after July 1, 2014, may not display the owner's or
131 operator's address on the card.

132 ~~[(d)]~~ (e) (i) A person may provide to a peace officer evidence of owner's or operator's
133 security described in this Subsection (2) in:

134 (A) a hard copy format; or

135 (B) an electronic format using a mobile electronic device.

136 (ii) If a person provides evidence of owner's or operator's security in an electronic
137 format using a mobile electronic device under this Subsection (2)(d), the peace officer viewing
138 the owner's or operator's security on the mobile electronic device may not view any other
139 content on the mobile electronic device.

140 (iii) Notwithstanding any other provision under this section, a peace officer is not
141 subject to civil liability or criminal penalties under this section if the peace officer inadvertently
142 views content other than the evidence of owner's or operator's security on the mobile electronic
143 device.

144 ~~[(e)]~~ (f) (i) Evidence of owner's or operator's security from the Uninsured Motorist
145 Identification Database Program described under Subsection (2)(b)(vi) supercedes any
146 evidence of owner's or operator's security described under Subsection (2)(b)(i)(D) or (E).

147 (ii) A peace officer may not cite or arrest a person for a violation of Subsection (2)(a) if
148 the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a,
149 Part 8, Uninsured Motorist Identification Database Program, information indicates that the

150 vehicle or driver is insured.

151 (3) It is an affirmative defense to a charge under this section that the person had
152 owner's or operator's security in effect for the vehicle the person was operating at the time of
153 the person's citation or arrest.

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

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

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

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

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

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

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

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

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

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

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

177 (iii) An insurer that provides a certificate of insurance as provided under Section
178 41-12a-402 or 41-12a-403 may not terminate the insurance policy unless notice of termination
179 is filed with the department no later than 10 days after termination as required under Section
180 41-12a-404.

181 (iv) If a person who has canceled the certificate of insurance applies for a license
182 within three years from the date proof of owner's or operator's security was originally required,
183 the department shall refuse the application unless the person reestablishes proof of owner's or
184 operator's security and maintains the proof for the remainder of the three-year period.

185 Section 3. Section **41-12a-501** is amended to read:

186 **41-12a-501. Post-accident security.**

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

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

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

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

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

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

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

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

209 (c) The owner of the motor vehicle was in compliance with the owner's security
210 requirement under Section **41-12a-301** at the time of the accident and the operator had
211 permission from the owner to operate the motor vehicle.

212 (d) The operator was in compliance with the operator's security requirement under
213 Section 41-12a-301 at the time of the accident.

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

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

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

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

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

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

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

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

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

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

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