

HB0429S01 compared with HB0429

~~{deleted text}~~ shows text that was in HB0429 but was deleted in HB0429S01.

Inserted text shows text that was not in HB0429 but was inserted into HB0429S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Daniel McCay proposes the following substitute bill:

SERVICE SOFTWARE APPLICATIONS AND REGISTRATION REQUIREMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates regulations and provisions related to services provided over software applications.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a rental network company to register with the Division of Consumer Protection;
- ▶ exempts a rental network company from certain requirements;
- ▶ provides operational requirements for a rental network company;

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- ▶ provides insurance requirements for a rental network company;
- ▶ establishes fees for noncompliance of a rental network company;
- ▶ establishes a presumption that a building contractor is an independent contractor;
and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

[13-2-1, as last amended by Laws of Utah 2017, Chapter 98](#)

13-48-102, as enacted by Laws of Utah 2011, Chapter 357

~~{ 31A-21-303, as last amended by Laws of Utah 2015, Chapter 385~~

‡ 31A-21-311, as last amended by Laws of Utah 2003, Chapter 252

31A-22-311, as last amended by Laws of Utah 1994, Chapter 316

41-1a-214, as last amended by Laws of Utah 2016, Chapter 356

41-12a-303.2, as last amended by Laws of Utah 2017, Chapter 416

ENACTS:

13-52-101, Utah Code Annotated 1953

13-52-102, Utah Code Annotated 1953

13-52-103, Utah Code Annotated 1953

13-52-201, Utah Code Annotated 1953

13-52-202, Utah Code Annotated 1953

13-52-301, Utah Code Annotated 1953

13-52-302, Utah Code Annotated 1953

13-52-303, Utah Code Annotated 1953

13-52-304, Utah Code Annotated 1953

13-52-305, Utah Code Annotated 1953

13-52-306, Utah Code Annotated 1953

13-52-307, Utah Code Annotated 1953

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13-52-401, Utah Code Annotated 1953
13-52-402, Utah Code Annotated 1953
13-52-501, Utah Code Annotated 1953
13-52-502, Utah Code Annotated 1953
31A-22-323, Utah Code Annotated 1953
31A-22-324, Utah Code Annotated 1953
31A-22-325, Utah Code Annotated 1953
34-53-101, Utah Code Annotated 1953
34-53-102, Utah Code Annotated 1953
34-53-201, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

34-53-101, Utah Code Annotated 1953
34-53-102, Utah Code Annotated 1953
34-53-201, Utah Code Annotated 1953

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

Section 1. Section 13-2-1 is amended to read:

13-2-1. Consumer protection division established -- Functions.

- (1) There is established within the Department of Commerce the Division of Consumer Protection.
- (2) The division shall administer and enforce the following:
- (a) Chapter 5, Unfair Practices Act;
 - (b) Chapter 10a, Music Licensing Practices Act;
 - (c) Chapter 11, Utah Consumer Sales Practices Act;
 - (d) Chapter 15, Business Opportunity Disclosure Act;
 - (e) Chapter 20, New Motor Vehicle Warranties Act;
 - (f) Chapter 21, Credit Services Organizations Act;
 - (g) Chapter 22, Charitable Solicitations Act;
 - (h) Chapter 23, Health Spa Services Protection Act;
 - (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
 - (j) Chapter 26, Telephone Fraud Prevention Act;

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- (k) Chapter 28, Prize Notices Regulation Act;
- (l) Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;
- (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- (o) Chapter 39, Child Protection Registry;
- (p) Chapter 41, Price Controls During Emergencies Act;
- (q) Chapter 42, Uniform Debt-Management Services Act;
- (r) Chapter 49, Immigration Consultants Registration Act; ~~and~~
- (s) Chapter 51, Transportation Network Company Registration Act;

~~Section 1~~; and

(t) Chapter 52, Rental Network Company Registration Act.

Section 2. Section **13-48-102** is amended to read:

13-48-102. Definitions.

As used in this chapter:

(1) "Motor vehicle license cost recovery fee" means a fee or charge that may be separately stated and charged on the short-term motor vehicle lease or rental contract in a motor vehicle lease or rental transaction originating in this state to recover the costs incurred by a motor vehicle rental company to license, title, register, obtain license plates for, and inspect rental motor vehicles.

(2) (a) "Motor vehicle rental company" means any person or organization in the business of renting motor vehicles to the public.

(b) "Motor vehicle rental company" does not include a rental network company, as defined in Section 13-52-102.

Section ~~2~~3. Section **13-52-101** is enacted to read:

CHAPTER 52. RENTAL NETWORK COMPANY REGISTRATION ACT

Part 1. General Provisions

13-52-101. Title.

This chapter is known as "Rental Network Company Registration Act."

Section ~~3~~4. Section **13-52-102** is enacted to read:

13-52-102. Definitions.

As used in this chapter:

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(1) (a) "Authorized driver" means the renter of a private motor vehicle.

(b) "Authorized driver" includes:

(i) the renter's spouse, if the spouse is a licensed driver satisfying the rental network company's minimum age requirement;

(ii) the renter's employer or coworker, if engaged in business activity with the renter and if licensed drivers satisfying the rental network company's minimum age requirement;

(iii) a person who operates the vehicle during an emergency situation;

(iv) a person who operates the vehicle while parking the vehicle at a commercial establishment; or

(v) a person expressly listed by the rental network company on the rental agreement as an authorized driver.

(2) "Blanket insurance policy" means the same as that term is defined in Section 31A-1-301.

(3) "Division" means the Division of Consumer Protection within the Department of Commerce.

(4) (a) "Motor vehicle" means a self-propelled vehicle that:

(i) is designed for use upon a highway;

(ii) has a gross weight rating of 10,000 pounds or less;

(iii) is not used for the commercial delivery of goods or materials; and

(iv) is not used for the commercial transportation of goods or materials.

(b) "Motor vehicle" does not include:

(i) an off-highway vehicle as defined in Section 41-22-2;

(ii) a traction engine;

(iii) a road roller;

(iv) a farm tractor;

(v) a tractor crane;

(vi) a power shovel;

(vii) a well driller; or

(viii) a vehicle:

(A) propelled by electric power obtained from overhead wires; and

(B) not operated upon rails.

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(5) (a) "Private motor vehicle" means a motor vehicle that:

(i) is currently registered;

(ii) an individual owns; and

(iii) if the motor vehicle is required to be insured under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act, an individual insures under a personal motor vehicle liability insurance policy insuring:

(A) the individual; or

(B) the individual and individuals residing in the same household as the individual.

(b) "Private motor vehicle" does not include a motor vehicle with fewer than four wheels.

(6) "Private vehicle rental" means the use of a private motor vehicle:

(a) by a person other than the private motor vehicle's owner; and

(b) through a software application.

(7) "Rental agreement" means any written agreement stating the terms and conditions governing the use of a private motor vehicle provided by a rental network company through a software application.

(8) "Rental network company" means an entity that:

(a) uses a software application to connect a renter to a private motor vehicle; and

(b) does not own or lease a private motor vehicle used in a private vehicle rental.

(9) "Rental period" means the period of time:

(a) beginning when an authorized driver takes possession and control of a private motor vehicle that the renter rents through a software application; and

(b) ending when:

(i) (A) the rental vehicle owner or rental vehicle owner's designee retrieves the private motor vehicle;

(B) the renter returns the private motor vehicle to a location upon which the rental vehicle owner and the renter agree; or

(C) the renter returns the private motor vehicle to a location the rental network company designates; and

(ii) (A) the time period established in the rental agreement expires;

(B) the renter verifiably communicates to the rental network company or rental vehicle

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owner that the renter considers the rental period terminated; or

(C) the rental vehicle owner or the rental network company takes possession and control of the private motor vehicle.

(10) "Rental vehicle owner" means an individual who:

(a) owns and registers a private motor vehicle that the individual makes available for rent through a rental network company's software application; and

(b) receives compensation in exchange for renting the individual's private motor vehicle.

(11) "Renter" means a person who rents a rental vehicle owner's private motor vehicle:

(a) through a software application; and

(b) for the purpose of allowing an authorized driver to possess and control the private motor vehicle during the rental period.

(12) "Software application" means an Internet-connected software platform, including a mobile application, that a rental network company uses to:

(a) connect a rental vehicle owner to a renter; and

(b) process a renter's request to rent a rental vehicle owner's private motor vehicle.

Section ~~{4}~~5. Section **13-52-103** is enacted to read:

13-52-103. Scope.

A rental network company or a rental vehicle owner is not subject to:

(1) Title 13, Chapter 48, Motor Vehicle Rental Company Disclosure Act; or

(2) the provisions of Section 31A-22-312 or 31A-22-314.

Section ~~{5}~~6. Section **13-52-201** is enacted to read:

Part 2. Division Oversight of Rental Network Companies

13-52-201. Registration of a rental network company.

(1) A person may not operate as a rental network company in this state, unless the person registers with the division in accordance with Subsection (2).

(2) The division shall register a person to operate as a rental network company if the person:

(a) demonstrates to the division that the person:

(i) meets the definition of a rental network company under Section 13-52-102;

(ii) has a registered agent in accordance with Section 13-52-301;

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(iii) has prepared a disclosure in accordance with Section 13-52-305;

(iv) has, if applicable, a method for collecting a rental rate in accordance with Section 13-52-307; and

(v) has insurance in accordance with the provisions described in Part 4, Insurance; and

(b) pays a registration fee in an amount determined by the division in accordance with Section 63J-1-504.

(3) A rental network company registration described in Subsection (2) is:

(a) valid for one year after the day on which the rental network company registers with the division; and

(b) renewable if the division determines that the person complies with the requirements for a rental network company described in this chapter.

Section ~~6~~7. Section **13-52-202** is enacted to read:

13-52-202. Division audits of rental network companies.

The division may audit the records of a rental network company to ensure compliance with the provisions of this chapter:

(1) no more than twice per year;

(2) at a location agreed to by the division and the rental network company; and

(3) notwithstanding Subsection (1), at any time to investigate a complaint.

Section ~~7~~8. Section **13-52-301** is enacted to read:

Part 3. Operating Requirements

13-52-301. Agent for service of process requirement.

A rental network company shall maintain an agent for service of process in the state and notify the division of the name and address of the agent.

Section ~~8~~9. Section **13-52-302** is enacted to read:

13-52-302. Facilitating a motor vehicle rental.

For each motor vehicle of which a rental network company facilitates a rental, the rental network company shall:

(1) require that the vehicle is a private motor vehicle;

(2) provide the rental vehicle owner with suitable proof of compliance with the insurance requirements of this chapter; and

(3) require that the motor vehicle comply with the minimum financial responsibility

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requirements of the state in which the vehicle is registered.

Section ~~{9}~~10. Section **13-52-303** is enacted to read:

13-52-303. Rental network company equipment -- Indemnification.

A rental network company shall:

(1) to the extent necessary for the motor vehicle to be used in a private vehicle rental, facilitate the installation, operation, and maintenance of the rental network company's own signage and computer hardware and software in the motor vehicle; and

(2) indemnify and hold harmless the rental vehicle owner for:

(a) the cost of damage to, or theft of, equipment the rental network company installs, operates, and maintains under Subsection (1); and

(b) any damage the installation, operation, or maintenance of equipment described in Subsection (1) causes to the motor vehicle.

Section ~~{10}~~11. Section **13-52-304** is enacted to read:

13-52-304. Records.

A rental network company shall:

(1) collect, maintain, and make available, at the cost of the rental network company, to any government agency as required by law:

(a) information regarding the rental vehicle owner's primary motor vehicle liability insurer;

(b) information regarding the renter's primary motor vehicle, excess, or umbrella insurer; and

(c) the following information pertaining to an incident that occurs during a rental period:

(i) verifiable records of the rental period for the motor vehicle involved in the incident;

(ii) to the extent electronic equipment for monitoring the following information is installed in the motor vehicle, verifiable electronic records of the time in relation to initial and final locations of the motor vehicle; and

(iii) if an insurance claim is with a blanket insurer, information relevant to the claim, including a rental network company payment related to an accident, any damage, or an injury; and

(2) maintain a record of:

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(i) each rental, for a minimum of five years after the day on which a rental period ends;
and

(ii) all information in the rental network company's possession regarding a rental vehicle owner for a minimum of five years after the day on which the rental vehicle owner last made a private motor vehicle available for private vehicle rental through the rental network company.

Section ~~{11}~~12. Section **13-52-305** is enacted to read:

13-52-305. Disclosure requirements.

(1) Before a private motor vehicle is made available for use through a software application, the rental network company shall disclose to the owner of the private motor vehicle:

(a) a description of the insurance coverage the rental network company provides under Part 4, Insurance;

(b) that ~~{during a private vehicle rental, }~~a rental vehicle owner's personal motor vehicle ~~{liability insurer}~~insurance policy may exclude any and all coverage ~~{afforded to the personal motor vehicle liability insurer's policy}~~for loss arising during the rental period, including physical damage to the rental vehicle owner's private motor vehicle;

(c) that a rental vehicle owner's personal motor vehicle liability insurer has the right to notify an insured that the personal motor vehicle liability insurer does not have a duty to defend or indemnify a person for liability for loss that occurs during a private vehicle rental;

(d) that the rental network company's blanket policy may not provide coverage outside of the private vehicle rental;

(e) that, if the private motor vehicle the rental vehicle owner makes available for private vehicle rental has a lien against the private motor vehicle, the rental vehicle owner is required to notify the lienholder that the rental network company is using the private motor vehicle to provide private vehicle rentals; and

(f) that using a private motor vehicle against which there is a lien in a private vehicle rental may violate the rental vehicle owner's contract with the lienholder.

(2) Before a renter's first operation of a private motor vehicle through a software application, the rental network company using the software application shall disclose to the renter the information described in Subsections (1)(b) through (d).

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Section ~~{12}~~13. Section 13-52-306 is enacted to read:

13-52-306. Transactional information provided to a renter.

(1) For each private vehicle rental transaction made through a software application, the rental network company shall provide the rental agreement to the renter at the time of the rental.

(2) Within 24 hours after the end of a rental period, the rental company that facilitated the rental shall transmit an electronic receipt to the renter that lists:

(a) the dates and times indicating the beginning and end of the rental period;

(b) the total number of miles driven during the rental period; and

(c) an itemization of the total rental rate the renter paid, if any.

Section ~~{13}~~14. Section 13-52-307 is enacted to read:

13-52-307. Collection of funds.

A rental network company may collect, on behalf of a rental vehicle owner, a rental rate for a private vehicle rental if the rental network company:

(1) posts the method for calculating the rental rate on the rental network company's software application;

(2) permits a rental vehicle owner to set the rental rate for the rental vehicle owner's private motor vehicle; and

(3) allows a renter the option to obtain an estimated rental rate for a private vehicle rental before the renter reserves a private vehicle rental.

Section ~~{14}~~15. Section 13-52-401 is enacted to read:

Part 4. Insurance

13-52-401. Insurance requirements.

(1) A rental network company shall maintain a blanket insurance policy that, during a rental period:

(a) covers, on a primary basis:

(i) an authorized driver; and

(ii) an occupant of the private motor vehicle; and

(b) includes:

(i) liability coverage for a minimum amount of \$1,000,000 per occurrence;

(ii) personal injury protection to the extent required under Sections 31A-22-306

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through 31A-22-309;

(iii) uninsured motorist coverage in accordance with Section 31A-22-305; and

(iv) underinsured motorist coverage in accordance with Section 31A-22-305.3.

(2) A rental network company shall maintain a blanket insurance policy that:

(a) covers, on a primary basis, the use of a private motor vehicle while in the custody of the rental network company, including use by an agent, employee, director, officer, or assign of the rental network company; and

(b) includes:

(i) liability coverage in a minimum amount, per occurrence, of:

(A) \$50,000 to any one individual;

(B) \$100,000 to all individuals; and

(C) \$30,000 for property damage;

(ii) personal injury protection to the extent required under Sections 31A-22-306

through 31A-22-309;

(iii) uninsured motorist coverage in accordance with Section 31A-22-305; and

(iv) underinsured motorist coverage in accordance with Section 31A-22-305.3.

Section ~~†15~~16. Section **13-52-402** is enacted to read:

13-52-402. Coordination of insurance coverage -- Notification.

(1) A blanket insurance policy described in Subsection 13-52-401(1) is:

(a) primary with respect to any other insurance available to the rental vehicle owner;

and

(b) secondary with respect to any other insurance available to the renter, authorized driver, or occupant of the private motor vehicle.

(2) A blanket insurance policy under Subsection 13-52-401(2) is primary with respect to any other insurance available to the rental vehicle owner.

(3) A rental network company shall notify the rental vehicle owner's personal motor vehicle liability insurer of a dispute described in Subsection 31A-22-325(3) within 10 business days after the day on which the rental network company became aware of the dispute.

Section ~~†16~~17. Section **13-52-501** is enacted to read:

Part 5. Miscellaneous

13-52-501. Violations.

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The division may fine a rental network company up to \$500 for each violation of this chapter.

Section ~~{17}~~18. Section **13-52-502** is enacted to read:

13-52-502. Non-preemption clause.

This chapter does not supersede a municipal, county, or local government regulation regarding a rental network company, including a rental network company facilitating a private vehicle rental at an airport.

~~{~~ ~~Section 18. Section **31A-21-303** is amended to read:~~

~~**31A-21-303. Cancellation, issuance, renewal:**~~

~~(1) (a) Except as otherwise provided in this section, other statutes, or by rule under Subsection (1)(c), this section applies to all policies of insurance:~~

~~(i) except for:~~

~~(A) life insurance;~~

~~(B) accident and health insurance; and~~

~~(C) annuities; and~~

~~(ii) if the policies of insurance are issued on forms that are subject to filing under Subsection 31A-21-201(1):~~

~~(b) A policy may provide terms more favorable to insureds than this section requires.~~

~~(c) The commissioner may by rule totally or partially exempt from this section classes of insurance policies in which the insureds do not need protection against arbitrary or unannounced termination:~~

~~(d) The rights provided by this section are in addition to and do not prejudice any other rights the insureds may have at common law or under other statutes.~~

~~(2) (a) As used in this Subsection (2), "grounds" means:~~

~~(i) material misrepresentation;~~

~~(ii) substantial change in the risk assumed, unless the insurer should reasonably have foreseen the change or contemplated the risk when entering into the contract;~~

~~(iii) substantial breaches of contractual duties, conditions, or warranties;~~

~~(iv) attainment of the age specified as the terminal age for coverage, in which case the insurer may cancel by notice under Subsection (2)(c), accompanied by a tender of proportional return of premium; or~~

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~~—— (v) in the case of motor vehicle insurance, revocation or suspension of the driver's license of:~~

~~—— (A) the named insured; or~~

~~—— (B) any other person who customarily drives the motor vehicle.~~

~~—— (b) (i) Except as provided in Subsection (2)(c) or unless the conditions of Subsection (2)(b)(ii) are met, an insurance policy may not be canceled by the insurer before the earlier of:~~

~~—— (A) the expiration of the agreed term; or~~

~~—— (B) one year from the effective date of the policy or renewal.~~

~~—— (ii) Notwithstanding Subsection (2)(b)(i), an insurance policy may be canceled by the insurer for:~~

~~—— (A) nonpayment of a premium when due; or~~

~~—— (B) subject to Subsection (2)(f), on grounds defined in Subsection (2)(a).~~

~~—— (c) (i) The cancellation provided by Subsection (2)(b), except cancellation for nonpayment of premium, is effective no sooner than 30 days after the delivery or first-class mailing of a written notice to the policyholder.~~

~~—— (ii) Cancellation for nonpayment of premium is effective no sooner than 10 days after delivery or first class mailing of a written notice to the policyholder.~~

~~—— (d) (i) Notice of cancellation for nonpayment of premium shall include a statement of the reason for cancellation.~~

~~—— (ii) Subsection (7) applies to the notice required for grounds of cancellation other than nonpayment of premium.~~

~~—— (e) (i) Subsections (2)(a) through (d) do not apply to any insurance contract that has not been previously renewed if the contract has been in effect less than 60 days when the written notice of cancellation is mailed or delivered.~~

~~—— (ii) A cancellation under this Subsection (2)(e) may not be effective until at least 10 days after the delivery to the insured of a written notice of cancellation.~~

~~—— (iii) If the notice required by this Subsection (2)(e) is sent by first-class mail, postage prepaid, to the insured at the insured's last-known address, delivery is considered accomplished after the passing, since the mailing date, of the mailing time specified in the Utah Rules of Civil Procedure.~~

~~—— (iv) A policy cancellation subject to this Subsection (2)(e) is not subject to the~~

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procedures described in Subsection (7).

~~—— (f) In the case of motor vehicle insurance, an insurance policy may not be canceled solely based on the participation of a motor vehicle that is covered by the motor vehicle insurance policy in a private vehicle rental, as defined in Section 13-52-102, unless:~~

~~—— (i) the motor vehicle owner, in combination with all individuals residing in the same household as the motor vehicle owner, uses a software application, as defined in Section 13-52-102, or combination of software applications, to rent or make available for rent, more than four motor vehicles at one time; or~~

~~—— (ii) (A) the motor vehicle is enrolled in a usage-based insurance program as defined in Subsection (2)(g); and~~

~~—— (B) immediately after cancellation of the policy the insurer offers the insured a new policy with the same coverages and pre-existing rates, but without enrollment in the usage-based insurance program as defined in Subsection (2)(g);~~

~~—— (g) As used in Subsections (2)(f) and (5)(a)(iv), "usage-based insurance program" means motor vehicle insurance under the terms of which the insurer is permitted to:~~

~~—— (i) electronically monitor acceleration, braking, miles driven, and other indicia of driving behavior; and~~

~~—— (ii) determine costs based on the behavior observed under Subsection (2)(g)(i).~~

~~—— (3) A policy may be issued for a term longer than one year or for an indefinite term if the policy includes a clause providing for cancellation by the insurer by giving notice as provided in Subsection (4)(b)(i) 30 days prior to any anniversary date.~~

~~—— (4) (a) Subject to Subsections (2), (3), and (4)(b), a policyholder has a right to have the policy renewed:~~

~~—— (i) on the terms then being applied by the insurer to similar risks; and~~

~~—— (ii) (A) for an additional period of time equivalent to the expiring term if the agreed term is one year or less; or~~

~~—— (B) for one year if the agreed term is longer than one year.~~

~~—— (b) Except as provided in Subsections (4)(c) and (5), the right to renewal under Subsection (4)(a) is extinguished if:~~

~~—— (i) at least 30 days before the policy expiration or anniversary date a notice of intention not to renew the policy beyond the agreed expiration or anniversary date is delivered or sent by~~

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~~first-class mail by the insurer to the policyholder at the policyholder's last-known address;~~

~~—— (ii) not more than 45 nor less than 14 days before the due date of the renewal premium; the insurer delivers or sends by first-class mail a notice to the policyholder at the policyholder's last-known address, clearly stating:~~

~~—— (A) the renewal premium;~~

~~—— (B) how the renewal premium may be paid, including the due date for payment of the renewal premium;~~

~~—— (C) that failure to pay the renewal premium extinguishes the policyholder's right to renewal; and~~

~~—— (D) subject to Subsection (4)(e), that the extinguishment of the right to renew for nonpayment of premium is effective no sooner than at least 10 days after delivery or first class mailing of a written notice to the policyholder that the policyholder has failed to pay the premium when due;~~

~~—— (iii) the policyholder has:~~

~~—— (A) accepted replacement coverage; or~~

~~—— (B) requested or agreed to nonrenewal; or~~

~~—— (iv) the policy is expressly designated as nonrenewable.~~

~~—— (c) Unless the conditions of Subsection (4)(b)(iii) or (iv) apply, an insurer may not fail to renew an insurance policy as a result of a telephone call or other inquiry that:~~

~~—— (i) references a policy coverage; and~~

~~—— (ii) does not result in the insured requesting payment of a claim.~~

~~—— (d) Failure to renew under this Subsection (4) is subject to Subsection (5).~~

~~—— (e) (i) During the period that begins when the notice described in Subsection (4)(b)(ii)(D) is delivered or mailed and ends when the premium is paid, coverage exists and premiums are due.~~

~~—— (ii) If after receiving the notice required by Subsection (4)(b)(ii)(D) a policyholder fails to pay the renewal premium, the coverage is extinguished as of the date the renewal premium is originally due.~~

~~—— (iii) Delivery of the notice required by Subsection (4)(b)(ii)(D) includes electronic delivery in accordance with Section 31A-21-316.~~

~~—— (iv) An insurer is not subject to Subsection (4)(b)(ii)(D) if it provides notice of the~~

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~~extinguishment of the right to renew for failure to pay premium at least 15 days, but no longer than 45 days, before the day the renewal payment is due:~~

~~—— (v) Subsection (4)(b)(ii)(D) does not apply to a policy that provides coverage for 30 days or less:~~

~~—— (5) Notwithstanding Subsection (4), an insurer may not fail to renew the following personal lines insurance policies solely on the basis of:~~

~~—— (a) in the case of a motor vehicle insurance policy:~~

~~—— (i) a claim from the insured that:~~

~~—— (A) results from an accident in which:~~

~~—— (I) the insured is not at fault; and~~

~~—— (II) the driver of the motor vehicle that is covered by the motor vehicle insurance policy is 21 years of age or older; and~~

~~—— (B) is the only claim meeting the condition of Subsection (5)(a)(i)(A) within a 36-month period;~~

~~—— (ii) a single traffic violation by an insured that:~~

~~—— (A) is a violation of a speed limit under Title 41, Chapter 6a, Traffic Code;~~

~~—— (B) is not in excess of 10 miles per hour over the speed limit;~~

~~—— (C) is not a traffic violation under:~~

~~—— (I) Section 41-6a-601;~~

~~—— (II) Section 41-6a-604; or~~

~~—— (III) Section 41-6a-605;~~

~~—— (D) is not a violation by an insured driver who is younger than 21 years of age; and~~

~~—— (E) is the only violation meeting the conditions of Subsections (5)(a)(ii)(A) through (D) within a 36-month period; [or]~~

~~—— (iii) a claim for damage that:~~

~~—— (A) results solely from:~~

~~—— (I) wind;~~

~~—— (II) hail;~~

~~—— (III) lightning; or~~

~~—— (IV) an earthquake;~~

~~—— (B) is not preventable by the exercise of reasonable care; and~~

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~~—— (C) is the only claim meeting the conditions of Subsections (5)(a)(iii)(A) and (B) within a 36-month period; [and] or~~

~~—— (iv) the owner of the motor vehicle covered by a motor vehicle insurance policy using the motor vehicle in a private vehicle rental, as defined in Section 13-52-102, unless:~~

~~—— (A) the vehicle is enrolled in a usage-based insurance program, as defined in Subsection (2)(g); and~~

~~—— (B) immediately after cancellation of the policy the insurer offers the insured a new policy with the same coverages and pre-existing rates, but without enrollment in the usage-based insurance program; and~~

~~—— (b) in the case of a homeowner's insurance policy, a claim by the insured that is for damage that:~~

~~—— (i) results solely from:~~

~~—— (A) wind;~~

~~—— (B) hail; or~~

~~—— (C) lightning;~~

~~—— (ii) is not preventable by the exercise of reasonable care; and~~

~~—— (iii) is the only claim meeting the conditions of Subsections (5)(b)(i) and (ii) within a 36-month period.~~

~~—— (6) (a) (i) Subject to Subsection (6)(b), if the insurer offers or purports to renew the policy, but on less favorable terms or at higher rates, the new terms or rates take effect on the renewal date if the insurer delivered or sent by first-class mail to the policyholder notice of the new terms or rates at least 30 days prior to the expiration date of the prior policy.~~

~~—— (ii) If the insurer did not give the prior notification described in Subsection (6)(a)(i) to the policyholder, the new terms or rates do not take effect until 30 days after the notice is delivered or sent by first-class mail, in which case the policyholder may elect to cancel the renewal policy at any time during the 30-day period.~~

~~—— (iii) Return premiums or additional premium charges shall be calculated proportionately on the basis that the old rates apply.~~

~~—— (b) Subsection (6)(a) does not apply if the only change in terms that is adverse to the policyholder is:~~

~~—— (i) a rate increase generally applicable to the class of business to which the policy~~

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belongs;

~~—— (ii) a rate increase resulting from a classification change based on the altered nature or extent of the risk insured against; or~~

~~—— (iii) a policy form change made to make the form consistent with Utah law.~~

~~—— (7) (a) If a notice of cancellation or nonrenewal under Subsection (2)(c) does not state with reasonable precision the facts on which the insurer's decision is based, the insurer shall send by first-class mail or deliver that information within 10 working days after receipt of a written request by the policyholder.~~

~~—— (b) A notice under Subsection (2)(c) is not effective unless it contains information about the policyholder's right to make the request.~~

~~—— (8) (a) An insurer that gives a notice of nonrenewal or cancellation of insurance on a motor vehicle insurance policy issued in accordance with the requirements of Chapter 22, Part 3, Motor Vehicle Insurance, for nonpayment of a premium shall provide notice of nonrenewal or cancellation to a lienholder if the insurer has been provided the name and mailing address of the lienholder.~~

~~—— (b) The notice described in Subsection (8)(a) shall be provided to the lienholder by first class mail or, if agreed by the parties, any electronic means of communication.~~

~~—— (c) A lienholder shall provide a current physical address of notification or an electronic address of notification to an insurer that is required to make a notification under Subsection (8)(a).~~

~~—— (9) If a risk-sharing plan under Section 31A-2-214 exists for the kind of coverage provided by the insurance being cancelled or nonrenewed, a notice of cancellation or nonrenewal required under Subsection (2)(c) or (4)(b)(i) may not be effective unless it contains instructions to the policyholder for applying for insurance through the available risk-sharing plan.~~

~~—— (10) There is no liability on the part of, and no cause of action against, any insurer, its authorized representatives, agents, employees, or any other person furnishing to the insurer information relating to the reasons for cancellation or nonrenewal or for any statement made or information given by them in complying or enabling the insurer to comply with this section unless actual malice is proved by clear and convincing evidence.~~

~~—— (11) This section does not alter any common law right of contract rescission for~~

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~~material misrepresentation:~~

~~—— (12) If a person is required to pay a premium in accordance with this section:~~

~~—— (a) the person may make the payment using:~~

~~—— (i) the United States Postal Service;~~

~~—— (ii) a delivery service the commissioner describes or designates by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or~~

~~—— (iii) electronic means; and~~

~~—— (b) the payment is considered to be made:~~

~~—— (i) for a payment that is mailed using the method described in Subsection (12)(a)(i), on the date the payment is postmarked;~~

~~—— (ii) for a payment that is delivered using the method described in Subsection (12)(a)(ii), on the date the delivery service records or marks the payment as having been received by the delivery service; or~~

~~—— (iii) for a payment that is made using the method described in Subsection (12)(a)(iii), on the date the payment is made electronically.~~

‡ Section 19. Section **31A-21-311** is amended to read:

31A-21-311. Group and blanket insurance.

(1) (a) (i) Except under Subsection (1)(d), an insurer issuing a group insurance policy other than a blanket insurance policy shall, as soon as practicable after the coverage is effective, provide a certificate for each member of the insured group, except that only one certificate need be provided for the members of a family unit.

(ii) The certificate required by this Subsection (1) shall:

(A) provide the exact name of the insurer;

(B) state the state of domicile of the insurer; and

(C) contain a summary of the essential features of the insurance coverage, including:

(I) any rights of conversion to an individual policy;

(II) in the case of group life insurance, any continuation of coverage during total disability; and

(III) in the case of group life insurance, the incontestability provision.

(iii) Upon receiving a written request, the insurer shall inform any insured how the insured may inspect, during normal business hours at a place reasonably convenient to the

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insured:

(A) a copy of the policy; or

(B) a summary of the policy containing all the details that are relevant to the certificate holder.

(b) The commissioner may by rule impose a requirement similar to Subsection (1)(a) on any class of blanket insurance policies for which the commissioner finds that the group of persons covered is constant enough for that type of action to be practicable and not unreasonably expensive.

(c) (i) A certificate shall be provided in a manner reasonably calculated to bring the certificate to the attention of the certificate holder.

(ii) The insurer may deliver or mail a certificate:

(A) directly to the certificate holders; or

(B) in bulk to the policyholder to transmit to certificate holders.

(iii) An affidavit by the insurer that the insurer mailed the certificates in the usual course of business creates a rebuttable presumption that the insurer has mailed the certificate to:

(A) a certificate holder; or

(B) a policyholder as provided in Subsection (1)(c)(ii)(B).

(d) The commissioner may by rule or order prescribe substitutes for delivery or mailing of certificates that are reasonably calculated to inform a certificate holder of the certificate holder's rights, including:

(i) booklets describing the coverage;

(ii) the posting of notices in the place of business; or

(iii) publication in a house organ.

(2) Unless a certificate or an authorized substitute has been made available to the certificate holder when required by this section, an act or omission forbidden to or required of the certificate holder by the certificate after the coverage has become effective as to the certificate holder, other than intentionally causing the loss insured against or failing to make required contributory premium payments, may not affect the insurer's obligations under the insurance contract.

(3) (a) As used in this Subsection (3):

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(i) "Authorized driver" means the same as that term is defined in Section 13-52-102.

(ii) "Private motor vehicle" means the same as that term is defined in Section 13-52-102.

(iii) "Rental network company" means the same as that term is defined in Section 13-52-102.

(iv) "Rental period" means the same as that term is defined in Section 13-52-102.

(b) (i) A blanket insurance policy that a rental network company maintains in accordance with Subsection 13-52-401(1) shall:

(A) identify the rental network company as the named insured;

(B) include a provision that provides coverage, without prior notice to the insurer, for all private motor vehicles during the rental period;

(C) include a provision that claims will be adjusted in accordance with Section 31A-26-303; and

(D) include a provision that the vehicles' authorized drivers and occupants are included as insureds under the policy to the same extent that the authorized drivers and occupants would be insureds under a private passenger motor vehicle policy.

(ii) A blanket insurance policy that a rental network company maintains in accordance with Subsection 13-52-401(2) shall:

(A) identify the rental network company as the named insured;

(B) include a provision that provides primary coverage, without prior notice to the insurer, for all private motor vehicles in the custody of the rental network company; and

(C) include a provision that claims will be adjusted pursuant to Section 31A-26-303.

Section 20. Section **31A-22-311** is amended to read:

31A-22-311. Definitions.

As used in Sections 31A-22-312 and 31A-22-314:

(1) "Authorized driver" means the person to whom the vehicle is rented and includes:

(a) his spouse if a licensed driver satisfying the rental company's minimum age requirement;

(b) his employer or coworker if engaged in business activity with the renter and if they are licensed drivers satisfying the rental company's minimum age requirement;

(c) any person who operates the vehicle during an emergency situation;

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(d) any person who operates the vehicle while parking the vehicle at a commercial establishment; or

(e) any person expressly listed by the rental company on the rental agreement as an authorized driver.

(2) "Damage" means any damage or loss to the rented vehicle resulting from a collision, including loss of use and any costs and expenses incident to the damage or loss.

(3) "Rental agreement" means any written agreement stating the terms and conditions governing the use of a private passenger motor vehicle provided by a rental company.

(4) (a) "Rental company" means any person or organization in the business of providing private passenger motor vehicles to the public.

(b) "Rental company" does not include a rental network company, as defined in Section 13-52-102.

(5) "Renter" means any person or organization obtaining the use of a private passenger motor vehicle from a rental company under the terms of a rental agreement.

Section 21. Section **31A-22-323** is enacted to read:

31A-22-323. Definitions.

As used in Sections 31A-22-234 and 31A-22-235:

(1) "Commercial vehicle" means the same as that term is defined in Section 41-1a-102.

(2) "Private motor vehicle" means the same as that term is defined in Section 13-52-102.

(3) "Private vehicle rental" means the same as that term is defined in Section 13-52-102.

(4) "Rental network company" means the same as that term is defined in Section 13-52-102.

(5) "Rental period" means the same as that term is defined in Section 13-52-102.

(6) "Rental vehicle owner" means the same as that term is defined in Section 13-52-102.

(7) "Renter" means the same as that term is defined in Section 13-52-102.

(8) "Software application" means the same as that term is defined in Section 13-52-102.

Section 22. Section **31A-22-324** is enacted to read:

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31A-22-324. Participation in a private vehicle rental.

(1) An insurer that issues a motor vehicle related insurance policy may ~~not~~:

~~(a) refuse coverage to a rental vehicle owner, if the rental vehicle owner, in combination with all individuals residing in the same household as the rental vehicle owner, uses a software application, or combination of software applications, to rent, or make available for rent, more than four motor vehicles at one time; or~~

~~(b) during a private vehicle rental, exclude any and all coverage that may otherwise be afforded to the rental vehicle owner under the personal motor vehicle liability insurer's policy.~~

(2) A motor vehicle required to be insured under Section 41-12a-301 is not a commercial vehicle solely because the motor vehicle's owner makes the motor vehicle available for rent through a software application, unless:

(a) the private vehicle rental fails to comply with the requirements of a private vehicle rental as described in Title 13, Chapter 52, Rental Network Company Registration Act;

(b) the rental vehicle owner or the rental network company knowingly allows a renter to use the private motor vehicle as a commercial vehicle during the private vehicle rental; or

(c) the rental vehicle owner, in combination with all individuals residing in the same household as the rental vehicle owner, uses a software application, or combination of software applications, to rent, or make available for rent, more than four motor vehicles at one time.

Section 23. Section **31A-22-325** is enacted to read:

31A-22-325. Private vehicle rental liability.

(1) Notwithstanding any other provision of law or any provision in a rental vehicle owner's personal motor vehicle liability insurance policy, in the event of a loss or injury that occurs during the rental period or while the private motor vehicle is under the control of a rental network company, the rental network company is the owner of the vehicle under any statute that may impose liability upon an owner of a private passenger motor vehicle solely based on ownership.

(2) A rental network company shall retain liability described in Subsection (1) regardless of any inadvertent lapse in the blanket policy under which the rental network company is insured.

(3) An insurer providing blanket liability insurance to a rental network company in accordance with Section 13-52-401 is liable for a claim in which a dispute exists regarding the

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person that was in control of the vehicle when the loss occurred giving rise to the claim.

(4) If it is determined that a rental vehicle's owner was in control of the private motor vehicle at the time of a loss giving rise to a claim, the rental vehicle owner's personal motor vehicle liability insurer shall indemnify the rental network company's blanket insurer, to the extent of the personal motor vehicle liability insurer's obligation under the applicable insurance policy.

(5) Subject to the provisions of Subsections (3) and (4), if a rental vehicle owner or the rental vehicle owner's personal motor vehicle insurer is named as the defendant in a civil action for a loss or injury that occurs:

(a) during the rental period, the rental network company's blanket liability insurance insurer under Subsection 13-52-401(1) has the duty to defend and indemnify the rental vehicle owner and rental vehicle owner's personal motor vehicle liability insurer; or

(b) while the private motor vehicle is under the control of a rental network company, the rental network company's blanket liability insurance insurer under Subsection 13-52-401(2) has the duty to defend and indemnify the rental vehicle owner and rental vehicle owner's personal motor vehicle liability insurer.

Section 24. Section **34-53-101** is enacted to read:

CHAPTER 53. BUILDING SERVICE NETWORK COMPANY ACT

Part 1. General Provisions

34-53-101. Title.

This chapter is known as "Building Service Network Company Act."

Section 25. Section **34-53-102** is enacted to read:

34-53-102. Definitions.

As used in this chapter:

(1) (a) "Building service" means a maintenance, repair, or installation service, in or around a building or residence, that costs \$3,000 or less.

(b) "Building service" includes:

(i) cleaning or janitorial services;

(ii) furniture assembly, installation, moving, or delivery services;

(iii) landscaping;

(iv) home repair services; and

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(v) services similar to the services described in Subsections (1)(b)(i) through (iv).

(2) "Building service contractor" means a person who enters into an agreement with a building service network company to use the building service network company's software platform to connect with and receive requests from persons seeking a building service.

(3) "Building service network company" means an entity that:

(a) uses an Internet-connected software platform, including a mobile application, to connect a building service contractor to a person seeking a building service; and

(b) charges a building service contractor or person seeking building services a fee to use the software platform described in Subsection (3)(a).

Section 26. Section **34-53-201** is enacted to read:

Part 2. Employment Status

34-53-201. Independent contractor presumption.

(1) A building service contractor may affiliate with a building service network company as an independent contractor or as an employee.

(2) (a) There is a presumption that a building service contractor who affiliates with a building service network company is an independent contractor, unless there is clear and convincing evidence that the parties intended the building service contractor to be an employee.

(b) The presumption described in Subsection (2)(a) extends to each act the building service contractor performs in connection with a request for a building service placed through the building service network company's software platform.

Section 27. Section **41-1a-214** is amended to read:

41-1a-214. Registration card to be signed, carried, and exhibited.

(1) A registration card shall be signed by the owner in ink in the space provided.

(2) A registration card shall be carried at all times in the vehicle to which it was issued.

(3) The person driving or in control of a vehicle shall display the registration card upon demand of a peace officer or any officer or employee of the division.

(4) For a vehicle owned by a rental company, as defined in Section 31A-22-311, a person driving or in control of the vehicle may display the vehicle's rental agreement, as defined in Section 31A-22-311, in place of a registration card for compliance with Subsection (3).

(5) For a vehicle being used in connection with a private vehicle rental, as defined in

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Section 13-52-102, a person driving or in control of the vehicle may display the vehicle's rental agreement, as defined in Section 13-52-102, in place of a registration card for compliance with Subsection (3).

~~[(5)]~~ (6) A violation of this section is an infraction.

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

(iv) A person operating a vehicle in connection with a private vehicle rental, as defined in Section 13-52-102, may comply with Subsection (2)(a)(i) by having in the person's immediate possession, or displaying, the rental vehicle's rental agreement, as defined in Section 13-52-102.

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

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

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- (A) insurance policy;
- (B) insurance policy declaration page;
- (C) binder notice;
- (D) renewal notice; or
- (E) card issued by an insurance company as evidence of insurance;
- (ii) a certificate of insurance issued under Section 41-12a-402;
- (iii) a certified copy of a surety bond issued under Section 41-12a-405;
- (iv) a certificate of the state treasurer issued under Section 41-12a-406;
- (v) a certificate of self-funded coverage issued under Section 41-12a-407; or
- (vi) information that the vehicle or driver is insured from the Uninsured Motorist

Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program.

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

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

- (A) a hard copy format; or
- (B) an electronic format using a mobile electronic device.

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

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

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

- (ii) A peace officer may not cite or arrest a person for a violation of Subsection (2)(a) if

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the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program, information indicates that the vehicle or driver is insured.

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

(4) (a) The following are considered proof of owner's or operator's security for purposes of Subsection (3) and Section 41-12a-804:

(i) evidence defined in Subsection (2)(b);

(ii) a written statement from an insurance producer or company verifying that the person had the required motor vehicle insurance coverage on the date specified; or

(iii) a written statement from an insurance producer or company, or provision in an insurance policy, indicating that the policy provides coverage for a newly purchased car and the coverage extended to the date specified.

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

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

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

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

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

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

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

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

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

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

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

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

Section 29. **Coordinating H.B. 429 with H.B. 364 -- Substantive and technical amendments.**

If this H.B. 429 and H.B. 364, Employment Law Amendments, both pass and become law, it is the intent of the Legislature that Sections 34-53-101, 34-53-102, and 34-53-201 in this bill supersede Sections 34-53-101, 34-53-102, and 34-53-201 in H.B. 364 when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

†

Legislative Review Note

Office of Legislative Research and General Counsel