

**DRIVING WITHOUT INSURANCE AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel W. Thatcher**

House Sponsor: Lee B. Perry

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**LONG TITLE**

**General Description:**

This bill amends provisions related to security while operating a motor vehicle.

**Highlighted Provisions:**

This bill:

- ▶ modifies the penalties for operating a motor vehicle without proof of security; and
- ▶ makes technical and conforming changes.

**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 2017, Chapter 416

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

Section 1. 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

30 permits.

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

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

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

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

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

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

40 (iii) A person operating a vehicle that is owned by a rental company, as defined in  
41 Section [31A-22-311](#), may comply with Subsection (2)(a)(i) by having in the person's  
42 immediate possession, or displaying, the rental vehicle's rental agreement, as defined in Section  
43 [31A-22-311](#).

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

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

46 (A) insurance policy;

47 (B) insurance policy declaration page;

48 (C) binder notice;

49 (D) renewal notice; or

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

51 (ii) a certificate of insurance issued under Section [41-12a-402](#);

52 (iii) a certified copy of a surety bond issued under Section [41-12a-405](#);

53 (iv) a certificate of the state treasurer issued under Section [41-12a-406](#);

54 (v) a certificate of self-funded coverage issued under Section [41-12a-407](#); or

55 (vi) information that the vehicle or driver is insured from the Uninsured Motorist  
56 Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured  
57 Motorist Identification Database Program.

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

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

63 (A) a hard copy format; or

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

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

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

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

76 (ii) A peace officer may not cite or arrest a person for a violation of Subsection (2)(a) if  
77 the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a,  
78 Part 8, Uninsured Motorist Identification Database Program, information indicates that the  
79 vehicle or driver is insured.

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

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

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

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

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

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

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

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

98 [~~(a) \$400 for a first offense; and]~~

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

101 (5) (a) A person who is convicted of violating Subsection (2)(a)(i):

102 (i) is guilty of an infraction for a first offense and subject to a fine of not less than  
103 \$400; and

104 (ii) is guilty of a class C misdemeanor for each offense subsequent to the first offense  
105 that is committed within three years after the day on which the person commits the first offense  
106 and subject to a fine of not less than \$1,000.

107 (b) A court may waive up to \$300 of a fine charged under Subsection (5)(a) if the  
108 person demonstrates that the owner's or operator's security required under Section 41-12a-301  
109 was obtained after the violation but before sentencing.

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

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

113 (b) may not renew the person's driver license or issue a driver license to the person

114 until the person gives the department proof of owner's or operator's security.

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

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

119 (iii) An insurer that provides a certificate of insurance as provided under Section  
120 41-12a-402 or 41-12a-403 may not terminate the insurance policy unless notice of termination  
121 is filed with the department no later than 10 days after termination as required under Section  
122 41-12a-404.

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