

1                   **EMERGENCY VEHICLE OPERATOR DUTY OF CARE**

2                                   **AMENDMENTS**

3   2018 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Jacob L. Anderegg**

6                                   House Sponsor: \_\_\_\_\_

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8                   **LONG TITLE**

9                   **General Description:**

10                   This bill requires agencies to have written policies to govern the protocol for engaging  
11                   and terminating marked authorized emergency vehicle pursuit and modifies the duty of  
12                   care if the operator acts outside the written policy.

13                   **Highlighted Provisions:**

14                   This bill:

- 15                   ▶ requires that agencies operating marked authorized emergency vehicles to have a  
16                   written policy to govern the protocol of the operator of the marked authorized  
17                   emergency vehicle to engage, conduct, and terminate vehicle pursuit;  
18                   ▶ provides that the operator of a marked authorized emergency vehicle owes a duty of  
19                   care to the occupant of a vehicle under pursuit if the operator of the marked  
20                   authorized emergency vehicle acts outside the written protocol for vehicle pursuit;  
21                   and  
22                   ▶ makes technical changes.

23                   **Money Appropriated in this Bill:**

24                   None

25                   **Other Special Clauses:**

26                   None

27                   **Utah Code Sections Affected:**



28 AMENDS:

29 **41-6a-212**, as last amended by Laws of Utah 2014, Chapter 288



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

32 Section 1. Section **41-6a-212** is amended to read:

33 **41-6a-212. Emergency vehicles -- Policy regarding vehicle pursuits --**

34 **Applicability of traffic law to highway work vehicles -- Exemptions.**

35 (1) As used in this section, "marked authorized emergency vehicle" means an  
36 authorized emergency vehicle that:

37 (a) has emergency lights that comply with Section **41-6a-1601** affixed to the top of the  
38 vehicle; or

39 (b) is displaying an identification mark designating the vehicle as the property of an  
40 entity that is authorized to operate emergency vehicles in a conspicuous place on both sides of  
41 the vehicle.

42 (2) Subject to Subsections (3) through (6), the operator of an authorized emergency  
43 vehicle may exercise the privileges granted under this section when:

- 44 (a) responding to an emergency call;
- 45 (b) in the pursuit of an actual or suspected violator of the law; or
- 46 (c) responding to but not upon returning from a fire alarm.

47 (3) The operator of an authorized emergency vehicle may:

- 48 (a) park or stand, irrespective of the provisions of this chapter;
- 49 (b) proceed past a red or stop signal or stop sign, but only after slowing down as may  
50 be necessary for safe operation;

51 (c) exceed the maximum speed limits, unless prohibited by a local highway authority  
52 under Section **41-6a-208**; or

53 (d) disregard regulations governing direction of movement or turning in specified  
54 directions.

55 (4) (a) Except as provided in Subsection (4)(b), privileges granted under this section to  
56 the operator of an authorized emergency vehicle, who is not involved in a vehicle pursuit,  
57 apply only when:

58 (i) the operator of the vehicle sounds an audible signal under Section **41-6a-1625**; or

59 (ii) uses a visual signal with emergency lights in accordance with rules made under  
60 Section 41-6a-1601, which is visible from in front of the vehicle.

61 (b) An operator of an authorized emergency vehicle may exceed the maximum speed  
62 limit when engaged in normal patrolling activities with the purpose of identifying and  
63 apprehending violators.

64 (5) (a) Privileges granted under this section to the operator of an authorized emergency  
65 vehicle involved in any vehicle pursuit apply only when:

66 ~~[(a)]~~ (i) the operator of the vehicle:

67 ~~[(i)]~~ (A) sounds an audible signal under Section 41-6a-1625; and

68 ~~[(ii)]~~ (B) uses a visual signal with emergency lights in accordance with rules made  
69 under Section 41-6a-1601, which is visible from in front of the vehicle;

70 ~~[(b) the public agency employing the operator of the vehicle has, in effect, a written  
71 policy which describes the manner and circumstances in which any vehicle pursuit should be  
72 conducted and terminated;]~~

73 ~~[(c)]~~ (ii) the operator of the authorized emergency vehicle has been trained in  
74 accordance with the written policy described in Subsection (5)(b); ~~[and]~~

75 (iii) the operator of the authorized emergency vehicle conducts the pursuit in  
76 accordance with the written policy described in Subsection (5)(b); and

77 ~~[(d)]~~ (iv) the pursuit policy of the public agency described in Subsection (5)(b) is in  
78 conformance with standards established under Subsection (6).

79 (b) (i) Each public agency that owns, operates, or causes to be operated an authorized  
80 emergency vehicle shall have a written policy that describes the manner and circumstances in  
81 which an operator of an authorized emergency vehicle shall engage, conduct, and terminate  
82 vehicle pursuit.

83 (ii) The policy described in Subsection (5)(b)(i) shall conform with the minimum  
84 standards set forth pursuant to Subsection (6).

85 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
86 Department of Public Safety shall make rules providing minimum standards for all emergency  
87 pursuit policies that are adopted by public agencies authorized to operate emergency pursuit  
88 vehicles.

89 (7) (a) Except as provided in Subsection (7)(b), the privileges granted under this

90 section do not relieve the operator of an authorized emergency vehicle of the duty to act as a  
91 reasonably prudent emergency vehicle operator under the circumstances.

92 (b) The operator of a marked authorized emergency vehicle owes no duty of care under  
93 this Subsection (7) to a person who is:

94 (i) (A) a suspect in the commission of a crime; and

95 (B) evading, fleeing, or otherwise attempting to elude the operator of a marked  
96 authorized emergency vehicle; or

97 (ii) in a motor vehicle with the suspect described in Subsection (7)(b)(i), unless it is  
98 proven by a preponderance of the evidence that:

99 (A) the person's presence in the vehicle was involuntary; and

100 (B) the person's participation in evading, fleeing, or attempting to elude was  
101 involuntary.

102 (c) (i) Notwithstanding Subsection (7)(b), an operator of a marked authorized  
103 emergency vehicle may be held liable for a fleeing suspect's injuries if the operator of a marked  
104 authorized emergency vehicle had actual intent to cause harm to the fleeing suspect in an act  
105 that was unrelated to the legitimate object of the arrest.

106 (ii) "Actual intent" under this Subsection (7)(c) means a malicious motive to cause  
107 injury, not merely an intent to do the act resulting in the injury.

108 (d) If an operator of a marked authorized emergency vehicle complies with the  
109 requirements described in Subsections (5) and (6) while operating the marked authorized  
110 emergency vehicle, the operator shall be deemed to have met the operator's duty to act as a  
111 reasonably prudent emergency vehicle operator under the circumstances.

112 (8) Except for Sections [41-6a-210](#), [41-6a-502](#), and [41-6a-528](#), this chapter does not  
113 apply to persons, motor vehicles, and other equipment while actually engaged in work on the  
114 surface of a highway.