

### Part 3 Owner's or Operator's Security Requirement

#### **41-12a-301 Definition -- Requirement of owner's or operator's security -- Exceptions.**

- (1) As used in this section:
  - (a) "highway" has the same meaning as provided in Section 41-1a-102; and
  - (b) "quasi-public road or parking area" has the same meaning as provided in Section 41-6a-214.
- (2) Except as provided in Subsection (5):
  - (a) every resident owner of a motor vehicle shall maintain owner's or operator's security in effect at any time that the motor vehicle is operated on a highway or on a quasi-public road or parking area within the state; and
  - (b) every nonresident owner of a motor vehicle that has been physically present in this state for:
    - (i) 90 or fewer days during the preceding 365 days shall maintain the type and amount of owner's or operator's security required in his place of residence, in effect continuously throughout the period the motor vehicle remains within Utah; or
    - (ii) more than 90 days during the preceding 365 days shall thereafter maintain owner's or operator's security in effect continuously throughout the period the motor vehicle remains within Utah.
- (3)
  - (a) Except as provided in Subsection (5), the state and all of its political subdivisions and their respective departments, institutions, or agencies shall maintain owner's or operator's security in effect continuously for their motor vehicles.
  - (b) Any other state is considered a nonresident owner of its motor vehicles and is subject to Subsection (2)(b).
- (4) The United States, any political subdivision of it, or any of its agencies may maintain owner's or operator's security in effect for their motor vehicles.
- (5) Owner's or operator's security is not required for any of the following:
  - (a) off-highway vehicles registered under Section 41-22-3 when operated either:
    - (i) on a highway designated as open for off-highway vehicle use; or
    - (ii) in the manner prescribed by Subsections 41-22-10.3(1) through (3);
  - (b) off-highway implements of husbandry operated in the manner prescribed by Subsections 41-22-5.5(3) through (5);
  - (c) electric assisted bicycles as defined under Section 41-6a-102;
  - (d) motor assisted scooters as defined under Section 41-6a-102;
  - (e) electric personal assistive mobility devices as defined under Section 41-6a-102; or
  - (f) a school district, for a school bus that the school district authorizes a state entity or political subdivision of the state to use.
- (6) If a school district authorizes a state entity or political subdivision of the state to use a school bus:
  - (a) the state entity or political subdivision shall maintain owner's or operator's security during the term of the school bus use in an amount that is greater than or equal to any governmental immunity liability limit;
  - (b) the state entity or the political subdivision shall indemnify and defend the school district for any claim that arises from the school bus use including a claim directed at the school district, unless the claim arises from the sole negligence of the school district; and
  - (c) if the school district maintains owner's or operator's security for the school bus during the term of school bus use, the owner's and operator's security maintained by the state entity or

political subdivision of the state is primary to the owner's and operator's security maintained by the school district.

Amended by Chapter 356, 2016 General Session

**41-12a-302 Operating motor vehicle without owner's or operator's security -- Penalty.**

- (1)
- (a) Except as provided in Subsection (1)(b), an owner of a motor vehicle on which owner's or operator's security is required under Section 41-12a-301, who operates the owner's vehicle or permits it to be operated on a highway in this state without owner's security being in effect is guilty of a class C misdemeanor, and the fine shall be not less than:
    - (i) \$400 for a first offense; and
    - (ii) \$1,000 for a second and subsequent offense within three years of a previous conviction or bail forfeiture.
  - (b) A court may waive up to \$300 of the fine charged to the owner of a motor vehicle under Subsection (1)(a)(i) if the owner demonstrates that owner's or operator's security required under Section 41-12a-301 was obtained subsequent to the violation but before sentencing.
- (2)
- (a) Except as provided under Subsection (2)(b), any other person who operates a motor vehicle upon a highway in Utah with the knowledge that the owner does not have owner's security in effect for the motor vehicle is also guilty of a class C misdemeanor, and the fine shall be not less than:
    - (i) \$400 for a first offense; and
    - (ii) \$1,000 for a second and subsequent offense within three years of a previous conviction or bail forfeiture.
  - (b) A person that has in effect owner's security on a Utah-registered motor vehicle or its equivalent that covers the operation, by the person, of the motor vehicle in question is exempt from this Subsection (2).

Amended by Chapter 412, 2015 General Session

**41-12a-303 Condition to obtaining registration, license plates, or safety inspection.**

The owner of a motor vehicle required to maintain owner's security under Section 41-12a-301 may be required to swear or affirm, in a manner specified by the State Tax Commission, or present other reasonable evidence that he has owner's security in effect at the time of registering, obtaining license plates for, or a safety inspection of the motor vehicle.

Amended by Chapter 85, 2001 General Session

**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.
- (b) Evidence of owner's or operator's security includes any one of the following:
  - (i) a copy of the operator's valid:
    - (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 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 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) Evidence of owner's or operator's security as defined under Subsection (2)(b) or a written statement from an insurance producer or company verifying that the person had the required motor vehicle insurance coverage on the date specified is considered proof of owner's or operator's security for purposes of Subsection (3) and Section 41-12a-804.
  - (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.
    - (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.

Amended by Chapter 303, 2016 General Session

Amended by Chapter 356, 2016 General Session

#### **41-12a-303.3 Providing false evidence of owner's or operator's security -- Penalty.**

A person who provides evidence of owner's or operator's security to a peace officer under Section 41-12a-303.2 knowing or having reason to believe that the evidence of owner's or operator's security is false or that it is evidence of owner's or operator's security that is not in effect is guilty of a class B misdemeanor.

Enacted by Chapter 220, 1994 General Session

**41-12a-304 No-fault tort immunity ineffective.**

The owner of a motor vehicle on which owner's or operator's security is required under Section 41-12a-301 who fails to have the security in effect at the time of an accident does not have immunity from tort liability under Subsection 31A-22-309(1). This owner is personally liable for the payment of the benefits provided for under Section 31A-22-307 to persons entitled to receive them under Section 31A-22-308.

Enacted by Chapter 242, 1985 General Session

**41-12a-305 Assigned risk plan.**

Section 31A-22-310 applies to an assigned risk plan. This continues the assigned risk plan established under Chapter 242, Laws of Utah 1985, with any modifications from Title 31A, Insurance Code.

Amended by Chapter 306, 2007 General Session

**41-12a-306 Claims adjustment by persons with owner's or operator's security other than insurance.**

- (1) An owner or operator of a motor vehicle with respect to whom owner's or operator's security is maintained by a means other than an insurance policy under Subsection 41-12a-103(9)(a) or (b), shall refer all bodily injury claims against the owner's or operator's security to an independent adjuster licensed under Title 31A, Chapter 26, Insurance Adjusters, or to an attorney.
- (2) Unless otherwise provided by contract, any motor vehicle claim adjustment expense incurred by a person maintaining owner's or operator's security by a means other than an insurance policy under Subsection 41-12a-103(9)(a) or (b), shall be paid by the person who maintains this type of owner's or operator's security.
- (3) Owners and operators of motor vehicles maintaining owner or operator's security by a means other than an insurance policy under Subsection 41-12a-103(9)(a) or (b) are subject to the claim adjustment provisions of Title 31A, Chapter 26, Part 3, Claim Practices, in connection with claims against such persons which arise out of the ownership, maintenance, or use of a motor vehicle.
- (4) In addition to other penalties and remedies available for failure to abide by this section, the department may require any person violating this section to maintain owner's or operator's security only in the manner specified under Subsection 41-12a-103(9)(a).

Amended by Chapter 371, 2008 General Session