

1 **EMERGENCY VEHICLE OPERATOR DUTY OF CARE**

2 **REVISIONS**

3 2014 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Brad L. Dee**

6 Senate Sponsor: Todd Weiler

8 **LONG TITLE**

9 **Committee Note:**

10 The Law Enforcement and Criminal Justice Interim Committee recommended this bill.

11 **General Description:**

12 This bill modifies Title 41, Chapter 6a, Traffic Code, by amending provisions relating
13 to the duty of care for an emergency vehicle operator.

14 **Highlighted Provisions:**

15 This bill:

16 ▶ provides that the operator of an authorized emergency vehicle owes no duty of care
17 to a person who is:

18 • a suspect in the commission of a crime and evading, fleeing, or otherwise
19 attempting to elude the operator of an authorized emergency vehicle; or

20 • in a motor vehicle with the suspect, unless ~~it is proven~~ **it is proven**

20a ~~←~~ by a

21 preponderance of the evidence that ~~it is proven~~:

21a **(A)** ~~←~~ the person's presence in the motor vehicle

22 was involuntary; ~~it is proven~~ **and**

22a **(B) the person's participation in evading, fleeing, or attempting to elude was**

22b **involuntary.** ~~←~~

23 ▶ provides that an operator of an authorized emergency vehicle may be held liable for
24 a fleeing suspect's injuries in certain circumstances; and

25 ▶ makes technical corrections.

26 **Money Appropriated in this Bill:**

27 None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **41-6a-212**, as last amended by Laws of Utah 2008, Chapter 382



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

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

36 **41-6a-212. Emergency vehicles -- Policy regarding vehicle pursuits --**

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

38 (1) Subject to Subsections (2) through (5), the operator of an authorized emergency
39 vehicle may exercise the privileges granted under this section when:

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

43 (2) The operator of an authorized emergency vehicle may:

- 44 (a) park or stand, irrespective of the provisions of this chapter;
- 45 (b) proceed past a red or stop signal or stop sign, but only after slowing down as may
46 be necessary for safe operation;
- 47 (c) exceed the maximum speed limits, unless prohibited by a local highway authority
48 under Section **41-6a-208**; or
- 49 (d) disregard regulations governing direction of movement or turning in specified
50 directions.

51 (3) (a) Except as provided in Subsection (3)(b), privileges granted under this section to
52 the operator of an authorized emergency vehicle, who is not involved in a vehicle pursuit,
53 apply only when:

- 54 (i) the operator of the vehicle sounds an audible signal under Section **41-6a-1625**; or
- 55 (ii) uses a visual signal with emergency lights in accordance with rules made under
56 Section **41-6a-1601**, which is visible from in front of the vehicle.

57 (b) An operator of an authorized emergency vehicle may exceed the maximum speed
58 limit when engaged in normal patrolling activities with the purpose of identifying and

59 apprehending violators.

60 (4) Privileges granted under this section to the operator of an authorized emergency
61 vehicle involved in any vehicle pursuit apply only when:

62 (a) the operator of the vehicle:

63 (i) sounds an audible signal under Section 41-6a-1625; and

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

66 (b) the public agency employing the operator of the vehicle has, in effect, a written
67 policy which describes the manner and circumstances in which any vehicle pursuit should be
68 conducted and terminated;

69 (c) the operator of the vehicle has been trained in accordance with the written policy
70 described in Subsection (4)(b); and

71 (d) the pursuit policy of the public agency is in conformance with standards established
72 under Subsection (5).

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

77 (6) ~~[The]~~ (a) Except as provided in Subsection (6)(b), the privileges granted under this
78 section do not relieve the operator of an authorized emergency vehicle of the duty to act as a
79 reasonably prudent emergency vehicle operator in like circumstances.

80 (b) The operator of an authorized emergency vehicle owes no duty of care under this
81 Subsection (6) to a person who is:

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

83 (B) evading, fleeing, or otherwise attempting to elude the operator of an authorized
84 emergency vehicle; or

85 (ii) in a motor vehicle with the suspect described in Subsection (6)(b)(i), unless ~~H→~~ [that
86 person can prove] it is proven ~~←H~~ by a preponderance of the evidence that ~~H→~~ :

86a (A) ~~←H~~ the person's presence in the vehicle
87 was involuntary ~~H→~~ [] ; and

87a (B) the person's participation in evading, fleeing, or attempting to elude was
87b involuntary. ~~←H~~

88 (c) (i) Notwithstanding Subsection (6)(b), an operator of an authorized emergency
89 vehicle may be held liable for a fleeing suspect's injuries if the operator of an authorized

90 emergency vehicle had actual intent to cause harm to the fleeing suspect in an act that was
91 unrelated to the legitimate object of the arrest.

92 (ii) "Actual intent" under this Subsection (6)(c) means a malicious motive to cause
93 injury, not merely an intent to do the act purportedly resulting in the injury.

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

Legislative Review Note
as of 11-22-13 10:22 AM

Office of Legislative Research and General Counsel