

KANE COUNTY JUSTICE COURT
State of Utah
76 North Main Street, Kanab, UT 84741
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ENHANCEMENT NOTICE – NO INSURANCE; NO PROOF OF INSURANCE – ^{5/12/15}

Defendant: _____ Case No: _____

IF YOU ARE CONVICTED of one of these offenses, this conviction may be used to make a later No Insurance or No Proof of Insurance charge more serious. This form provides notification of the provisions of current Utah law regarding 1) enhancements; 2) minimum/maximum penalties; 3) minimum sentencing requirements; and, 4) the specific elements of your current charges. This Notice does not notify you of all possible collateral consequences. Definitions, Driver License Consequences and Miscellaneous Provisions, of which the Court is aware, are set forth in a Supplement following the first two pages of this Enhancement Notice.

ELEMENTS

[] Class C Misdemeanor – No Insurance (Owner) 41-12a-302: Any owner of a motor vehicle on which insurance is required who operates the owner's vehicle or permits it to be operated on a highway in this state without insurance is guilty of a class C misdemeanor.

[] Class C Misdemeanor – No Insurance (Non-Owner) 41-12a-302: Any non-owner who operates a motor vehicle upon a highway in Utah with the knowledge that the owner does not have insurance in effect for the motor vehicle is guilty of a class C misdemeanor, unless that person has insurance on a Utah-registered motor vehicle or its equivalent that covers the operation, by the person, of the motor vehicle in question.

[] Class C Misdemeanor – No Proof of Insurance 41-12a-303.2: 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. A violation of this section is a class C misdemeanor.

ENHANCEMENT / PENALTIES

1st No Insurance Conviction (Owner) 41-12a-202: The fine shall be not less than \$400.00 for a first offense. The Court may waive up to \$300.00 of the fine if the owner obtained insurance after the violation but before sentencing.

2nd or Subsequent No Insurance Conviction (Owner) Within Three Years 41-12a-202: The fine shall be not less than \$1,000.00 for a second or subsequent conviction within three years of a previous conviction or bail forfeiture.

1st No Insurance Conviction (Non-Owner) 41-12a-202: The fine shall not be less than \$400.00 for a first offense.

2nd or Subsequent No Insurance Conviction (Non-Owner) 41-12a-202: The fine shall be not less than \$1,000.00 for a second or subsequent conviction within three years of a previous conviction or bail forfeiture.

1st No Proof of Insurance Conviction 41-12a-303.2: The fine shall be not less than \$400.00 for a first offense.

2nd or Subsequent No Proof of Insurance Conviction Within Three Years 41-12a-303.2: The fine shall be not less than \$1,000.00 for a second and subsequent offense within three years of a previous conviction or bail forfeiture.

Minimum / Maximum Sentences

1st Class C Misdemeanor No Insurance (Owner): 0 to 90 days jail AND \$100.00/\$400.00 to \$750.00 fines (plus interest)

1st Class C Misdemeanor No Insurance (Non-Owner): 0 to 90 days jail AND \$400.00 to \$750.00 fines (plus interest)

2nd Class C Misdemeanor No Insurance (Owner & Non-Owner): 0 to 90 days AND \$1,000.00 fines (plus interest)

1st Class C Misdemeanor No Proof of Insurance: 0 to 90 days jail AND \$400.00 to \$750.00 fines (plus interest)

2nd Class C Misdemeanor No Proof of Insurance: 0 to 90 days jail AND \$1,000.00 fines (plus interest)

I understand the foregoing Enhancement Notice as explained here and as orally explained to me.

_____ (Date) _____ (Defendant's signature)

[41-12A-302 NO INSURANCE: MC \$410 (Recommended) \$300 (Compliance); dismiss if valid insurance when cited]

[41-12A-302 NO INSURANCE – 2nd: MC \$1,000.00 (Mandatory); dismiss if valid insurance when cited]

[41-12A-303.2 NO PROOF OF INSURANCE: MC \$410 (Recommended) \$0 (Compliance); dismiss, if valid insurance when cited]

[41-12A-303.2 NO PROOF OF INSURANCE – 2nd: MC \$1,000.00 (Mandatory); dismiss if valid insurance when cited]

PLEASE COMPLETE THE FIRST TWO PAGES AND RETURN TO THE COURT.

SUPPLEMENT

Note: This Supplement, constituting of pages 3 through 4, contains Definitions, Driver License Consequences, and Miscellaneous Provisions of which the Court is aware. It does not purport to be an exhaustive list. The Supplement does not need to be returned to the Court with pages 1 & 2, which must be returned on the date of the person's personal appearance in Court or electronically, on the Internet, within 10 days of a telephonic or video appearance.

DEFINITIONS

41-12a-103: "Owner" means: (1) a person who holds legal title to a motor vehicle; (2) a lessee in possession; (3) a conditional vendee or lessee if the motor vehicle is the subject of a conditional sale or lease with the right of purchase and with an immediate right of possession; or, (4) a mortgagor if the motor vehicle is the subject of a mortgage with the mortgagor entitled to possession.

41-12a-301 Insurance Requirement: (1) Every resident owner shall maintain insurance any time a motor vehicle is operated on a highway or on a quasi-public road or parking area; (2) Every nonresident owner physically present in Utah for 90 or fewer days during the past 365 days shall maintain in effect, when his/her motor vehicle is in Utah, the type and amount of insurance required on the vehicle in the home state; and, (3) Every nonresident owner physically present in Utah for more than 90 days during the past 365 days shall maintain in effect, when the vehicle is in Utah, owner's or operator's security.

41-12a-301: "Highway" has the same meaning as set forth in Section 41-1a-102.

41-12a-301: "Quasi-public road or parking area" has the same meaning as provided in Section 41-6a-214.

41-12a-301 Exempt Vehicles: Owner's or operator's security is not required for the following: 1) off-highway vehicles registered under Section 41-22-3 when operated: (a) on a highway designated as open for off-highway vehicle use; or, (b) in the manner prescribed by Subsections 41-22-10.3(1) through (3); 2) off-highway implements of husbandry operated in the manner prescribed by Subsections 41-22-5.5(3) through (5); 3) electric assisted bicycles as defined under Section 41-6a-102; 4) motor assisted scooters as defined under Section 41-5a-102; or, 5) electric personal assistive mobility devices as defined under Section 41-6a-102.

DRIVER LICENSE CONSEQUENCES – 41-12a-303.2

The Utah Department of Public Safety will suspend a person's driver license who has been convicted of No Proof of Insurance until the person gives the Department proof of owner's or operator's security, which proof shall be maintained by the Department for three years.

This Court is unsure what will happen with a person's driver license for a conviction of No Insurance as a result of the Utah Legislature's 2015 reclassification of the No Insurance offense.

VEHICLE IMPOUNDMENT – 41-1a-1101

A peace officer, without a warrant, shall seize and take possession of any vehicle that is being operated on a highway without owner's or operator's security in effect for the vehicle, unless the officer reasonably determines: (1) the seizure would present a public safety concern to the operator and any occupants; or, (2) the impoundment would prevent the officer from addressing other public safety considerations.

The peace officer may not seize and take possession of a vehicle if the operator is not carrying evidence of insurance unless: (1) the officer verifies through the Uninsured Motorist Identification Database that owner's or operator's security is not in effect; or, (2) the operator of the vehicle is carrying evidence of Insurance in the vehicle and the Uninsured Motorist Identification Database indicates that the insurance is not in effect for the vehicle, unless the officer makes a reasonable attempt to independently verify that owner's or operator's security is not in effect for the vehicle.

AFFIRMATIVE DEFENSE

No Insurance (Non-Owner) 41-12a-302: 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 being operated is exempt from Non-Owner No Insurance offense as the operation of the vehicle is covered by insurance.

No Proof of Insurance 41-12a-303.2: A person is exempt from the requirements of having proof of insurance and displaying it on demand if the person is operating: (1) a government-owned or leased motor vehicle; or, (2) an employer-owned or leased motor vehicle that is being driven with the employer's permission.

It is an affirmative defense that the operator had owner's or operator's security in effect for the vehicle at the time of the citation or arrest.

A peace officer may not cite or arrest a person if the Uninsured Motorist Identification Database Program indicates that the vehicle or driver is insured.