

PUBLIC TRANSIT DISTRICT CUSTOMER INFORMATION

2013 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill modifies the Public Transit District Act and the Government Records Access Management Act by amending provisions relating to public transit district customer information.

Highlighted Provisions:

This bill:

- ▶ classifies certain public transit district customer account information and travel data received or collected as a private record under the Government Records Access Management Act; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-2a-815, as enacted by Laws of Utah 2007, Chapter 329

63G-2-302 (Superseded 09/01/12), as last amended by Laws of Utah 2012, Chapters 74 and 145

63G-2-302 (Effective 09/01/12), as last amended by Laws of Utah 2012, Chapters 74, 145, and 202

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

Section 1. Section **17B-2a-815** is amended to read:

17B-2a-815. Rates and charges for service.

(1) The board of trustees of a public transit district shall fix rates and charges for service provided by the district by a two-thirds vote of all board members.

- 33 (2) Rates and charges shall:
- 34 (a) be reasonable; and
- 35 (b) to the extent practicable:
- 36 (i) result in enough revenue to make the public transit system self supporting; and
- 37 (ii) be sufficient to:
- 38 (A) pay for district operating expenses;
- 39 (B) provide for repairs, maintenance, and depreciation of works and property that the
- 40 district owns or operates;
- 41 (C) provide for the purchase, lease, or acquisition of property and equipment;
- 42 (D) pay the interest and principal of bonds that the district issues; and
- 43 (E) pay for contracts, agreements, leases, and other legal liabilities that the district
- 44 incurs.

45 (3) (a) In accordance with Section 63G-2-302, the following personal information

46 received by the district from a customer through any debit, credit, or electronic fare payment

47 process is a private record under Title 63G, Chapter 2, Government Records Access and

48 Management Act:

- 49 (i) travel data, including:
- 50 (A) the identity of the purchasing individual or entity;
- 51 (B) travel dates, times, or frequency of use; and
- 52 (C) locations of use;
- 53 (ii) service type or vehicle identification used by the customer;
- 54 (iii) the unique transit pass identifier assigned to the customer; or
- 55 (iv) customer account information including the cardholder's name, the credit or debit
- 56 card number, the card issuer identification, or any other related information.
- 57 (b) Private records described in this Subsection (3) that are received by a public transit
- 58 district may only be disclosed in accordance with Section 63G-2-202.

59 Section 2. Section **63G-2-302 (Superseded 09/01/12)** is amended to read:

60 **63G-2-302 (Superseded 09/01/12). Private records.**

- 61 (1) The following records are private:
- 62 (a) records concerning an individual's eligibility for unemployment insurance benefits,
- 63 social services, welfare benefits, or the determination of benefit levels;

- 64 (b) records containing data on individuals describing medical history, diagnosis,
65 condition, treatment, evaluation, or similar medical data;
- 66 (c) records of publicly funded libraries that when examined alone or with other records
67 identify a patron;
- 68 (d) records received by or generated by or for:
- 69 (i) the Independent Legislative Ethics Commission, except for:
- 70 (A) the commission's summary data report that is required under legislative rule; and
71 (B) any other document that is classified as public under legislative rule; or
- 72 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,
73 unless the record is classified as public under legislative rule;
- 74 (e) records received or generated for a Senate confirmation committee concerning
75 character, professional competence, or physical or mental health of an individual:
- 76 (i) if prior to the meeting, the chair of the committee determines release of the records:
- 77 (A) reasonably could be expected to interfere with the investigation undertaken by the
78 committee; or
- 79 (B) would create a danger of depriving a person of a right to a fair proceeding or
80 impartial hearing; and
- 81 (ii) after the meeting, if the meeting was closed to the public;
- 82 (f) employment records concerning a current or former employee of, or applicant for
83 employment with, a governmental entity that would disclose that individual's home address,
84 home telephone number, Social Security number, insurance coverage, marital status, or payroll
85 deductions;
- 86 (g) records or parts of records under Section 63G-2-303 that a current or former
87 employee identifies as private according to the requirements of that section;
- 88 (h) that part of a record indicating a person's Social Security number or federal
89 employer identification number if provided under Section 31A-23a-104, 31A-25-202,
90 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
- 91 (i) that part of a voter registration record identifying a voter's:
- 92 (i) driver license or identification card number;
- 93 (ii) Social Security number, or last four digits of the Social Security number; or
94 (iii) email address;

- 95 (j) a record that:
- 96 (i) contains information about an individual;
- 97 (ii) is voluntarily provided by the individual; and
- 98 (iii) goes into an electronic database that:
- 99 (A) is designated by and administered under the authority of the Chief Information
- 100 Officer; and
- 101 (B) acts as a repository of information about the individual that can be electronically
- 102 retrieved and used to facilitate the individual's online interaction with a state agency;
- 103 (k) information provided to the Commissioner of Insurance under:
- 104 (i) Subsection 31A-23a-115(2)(a);
- 105 (ii) Subsection 31A-23a-302(3); or
- 106 (iii) Subsection 31A-26-210(3);
- 107 (l) information obtained through a criminal background check under Title 11, Chapter
- 108 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- 109 (m) information provided by an offender that is:
- 110 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap
- 111 Offender Registry; and
- 112 (ii) not required to be made available to the public under Subsection 77-41-110(4);
- 113 (n) a statement and any supporting documentation filed with the attorney general in
- 114 accordance with Section 34-45-107, if the federal law or action supporting the filing involves
- 115 homeland security;
- 116 (o) electronic toll collection customer account information received or collected under
- 117 Section 72-6-118 and customer information described in Section 17B-2a-815 received or
- 118 collected by a public transit district, including contact and payment information and customer
- 119 travel data;
- 120 (p) an email address provided by a military or overseas voter under Section
- 121 20A-16-501; and
- 122 (q) a completed military-overseas ballot that is electronically transmitted under Title
- 123 20A, Chapter 16, Uniform Military and Overseas Voters Act.
- 124 (2) The following records are private if properly classified by a governmental entity:
- 125 (a) records concerning a current or former employee of, or applicant for employment

126 with a governmental entity, including performance evaluations and personal status information
127 such as race, religion, or disabilities, but not including records that are public under Subsection
128 63G-2-301(2)(b) or 63G-2-301(3)(o), or private under Subsection (1)(b);

129 (b) records describing an individual's finances, except that the following are public:

130 (i) records described in Subsection 63G-2-301(2);

131 (ii) information provided to the governmental entity for the purpose of complying with
132 a financial assurance requirement; or

133 (iii) records that must be disclosed in accordance with another statute;

134 (c) records of independent state agencies if the disclosure of those records would
135 conflict with the fiduciary obligations of the agency;

136 (d) other records containing data on individuals the disclosure of which constitutes a
137 clearly unwarranted invasion of personal privacy;

138 (e) records provided by the United States or by a government entity outside the state
139 that are given with the requirement that the records be managed as private records, if the
140 providing entity states in writing that the record would not be subject to public disclosure if
141 retained by it; and

142 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
143 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a
144 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.

145 (3) (a) As used in this Subsection (3), "medical records" means medical reports,
146 records, statements, history, diagnosis, condition, treatment, and evaluation.

147 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
148 doctors, or affiliated entities are not private records or controlled records under Section
149 63G-2-304 when the records are sought:

150 (i) in connection with any legal or administrative proceeding in which the patient's
151 physical, mental, or emotional condition is an element of any claim or defense; or

152 (ii) after a patient's death, in any legal or administrative proceeding in which any party
153 relies upon the condition as an element of the claim or defense.

154 (c) Medical records are subject to production in a legal or administrative proceeding
155 according to state or federal statutes or rules of procedure and evidence as if the medical
156 records were in the possession of a nongovernmental medical care provider.

157 Section 3. Section **63G-2-302 (Effective 09/01/12)** is amended to read:

158 **63G-2-302 (Effective 09/01/12). Private records.**

159 (1) The following records are private:

160 (a) records concerning an individual's eligibility for unemployment insurance benefits,
161 social services, welfare benefits, or the determination of benefit levels;

162 (b) records containing data on individuals describing medical history, diagnosis,
163 condition, treatment, evaluation, or similar medical data;

164 (c) records of publicly funded libraries that when examined alone or with other records
165 identify a patron;

166 (d) records received by or generated by or for:

167 (i) the Independent Legislative Ethics Commission, except for:

168 (A) the commission's summary data report that is required under legislative rule; and

169 (B) any other document that is classified as public under legislative rule; or

170 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,
171 unless the record is classified as public under legislative rule;

172 (e) records received or generated for a Senate confirmation committee concerning
173 character, professional competence, or physical or mental health of an individual:

174 (i) if prior to the meeting, the chair of the committee determines release of the records:

175 (A) reasonably could be expected to interfere with the investigation undertaken by the
176 committee; or

177 (B) would create a danger of depriving a person of a right to a fair proceeding or
178 impartial hearing; and

179 (ii) after the meeting, if the meeting was closed to the public;

180 (f) employment records concerning a current or former employee of, or applicant for
181 employment with, a governmental entity that would disclose that individual's home address,
182 home telephone number, Social Security number, insurance coverage, marital status, or payroll
183 deductions;

184 (g) records or parts of records under Section 63G-2-303 that a current or former
185 employee identifies as private according to the requirements of that section;

186 (h) that part of a record indicating a person's Social Security number or federal
187 employer identification number if provided under Section 31A-23a-104, 31A-25-202,

- 188 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
- 189 (i) that part of a voter registration record identifying a voter's:
- 190 (i) driver license or identification card number;
- 191 (ii) Social Security number, or last four digits of the Social Security number; or
- 192 (iii) email address;
- 193 (j) a record that:
- 194 (i) contains information about an individual;
- 195 (ii) is voluntarily provided by the individual; and
- 196 (iii) goes into an electronic database that:
- 197 (A) is designated by and administered under the authority of the Chief Information
- 198 Officer; and
- 199 (B) acts as a repository of information about the individual that can be electronically
- 200 retrieved and used to facilitate the individual's online interaction with a state agency;
- 201 (k) information provided to the Commissioner of Insurance under:
- 202 (i) Subsection 31A-23a-115(2)(a);
- 203 (ii) Subsection 31A-23a-302(3); or
- 204 (iii) Subsection 31A-26-210(3);
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- 206 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
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- 209 Offender Registry; and
- 210 (ii) not required to be made available to the public under Subsection 77-41-110(4);
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- 212 accordance with Section 34-45-107, if the federal law or action supporting the filing involves
- 213 homeland security;
- 214 (o) electronic toll collection customer account information received or collected under
- 215 Section 72-6-118 and customer information described in Section 17B-2a-815 received or
- 216 collected by a public transit district, including contact and payment information and customer
- 217 travel data;
- 218 (p) an email address provided by a military or overseas voter under Section

- 219 20A-16-501;
- 220 (q) a completed military-overseas ballot that is electronically transmitted under Title
221 20A, Chapter 16, Uniform Military and Overseas Voters Act; and
- 222 (r) records received by or generated by or for the Political Subdivisions Ethics Review
223 Commission established in Section 11-49-201, except for:
- 224 (i) the commission's summary data report that is required in Section 11-49-202; and
225 (ii) any other document that is classified as public in accordance with Title 11, Chapter
226 49, Political Subdivisions Ethics Review Commission.
- 227 (2) The following records are private if properly classified by a governmental entity:
- 228 (a) records concerning a current or former employee of, or applicant for employment
229 with a governmental entity, including performance evaluations and personal status information
230 such as race, religion, or disabilities, but not including records that are public under Subsection
231 63G-2-301(2)(b) or 63G-2-301(3)(o), or private under Subsection (1)(b);
- 232 (b) records describing an individual's finances, except that the following are public:
- 233 (i) records described in Subsection 63G-2-301(2);
234 (ii) information provided to the governmental entity for the purpose of complying with
235 a financial assurance requirement; or
- 236 (iii) records that must be disclosed in accordance with another statute;
- 237 (c) records of independent state agencies if the disclosure of those records would
238 conflict with the fiduciary obligations of the agency;
- 239 (d) other records containing data on individuals the disclosure of which constitutes a
240 clearly unwarranted invasion of personal privacy;
- 241 (e) records provided by the United States or by a government entity outside the state
242 that are given with the requirement that the records be managed as private records, if the
243 providing entity states in writing that the record would not be subject to public disclosure if
244 retained by it; and
- 245 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
246 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a
247 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.
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249 records, statements, history, diagnosis, condition, treatment, and evaluation.

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251 doctors, or affiliated entities are not private records or controlled records under Section
252 63G-2-304 when the records are sought:

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254 physical, mental, or emotional condition is an element of any claim or defense; or

255 (ii) after a patient's death, in any legal or administrative proceeding in which any party
256 relies upon the condition as an element of the claim or defense.

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258 according to state or federal statutes or rules of procedure and evidence as if the medical
259 records were in the possession of a nongovernmental medical care provider.