

1                                   **PUBLIC SAFETY FEE PROCESS REVISION**

2   2000 GENERAL SESSION

3   STATE OF UTAH

4   **Sponsor: Blake D. Chard**

5 AN ACT RELATING TO PUBLIC SAFETY; AUTHORIZING ESTABLISHMENT OF PUBLIC  
6 SAFETY FEES THROUGH THE APPROPRIATION PROCESS; MAKING TECHNICAL  
7 CLARIFICATIONS; AND PROVIDING AN EFFECTIVE DATE.

8 This act affects sections of Utah Code Annotated 1953 as follows:

9 AMENDS:

10           **41-1a-115**, as last amended by Chapter 313, Laws of Utah 1994

11           **41-6-35**, as last amended by Chapter 30, Laws of Utah 1999

12           **41-6-44.10**, as last amended by Chapter 226, Laws of Utah 1999

13           **53-3-105**, as last amended by Chapters 216 and 248, Laws of Utah 1999

14           **53-3-303.5**, as last amended by Chapter 74, Laws of Utah 1999

15           **53-3-506**, as last amended by Chapter 28, Laws of Utah 1995

16           **53-5-707**, as last amended by Chapters 120 and 227, Laws of Utah 1999

17           **53-7-215**, as renumbered and amended by Chapter 234, Laws of Utah 1993

18           **53-7-216**, as last amended by Chapter 28, Laws of Utah 1995

19           **53-7-217**, as renumbered and amended by Chapter 234, Laws of Utah 1993

20           **53-7-223**, as last amended by Chapter 14, Laws of Utah 1995

21           **53-7-224**, as enacted by Chapter 234, Laws of Utah 1993

22           **53-7-306**, as renumbered and amended by Chapter 234, Laws of Utah 1993

23           **53-7-309**, as renumbered and amended by Chapter 234, Laws of Utah 1993

24           **53-7-311**, as renumbered and amended by Chapter 234, Laws of Utah 1993

25           **53-7-312**, as last amended by Chapter 14, Laws of Utah 1995

26           **53-8-204**, as last amended by Chapter 238, Laws of Utah 1998

27           **53-8-206**, as last amended by Chapter 238, Laws of Utah 1998

- 28           **53-9-111**, as last amended by Chapter 212, Laws of Utah 1998
- 29           **53-10-108**, as last amended by Chapter 227, Laws of Utah 1999
- 30           **53-11-115**, as enacted by Chapter 257, Laws of Utah 1998
- 31           **76-10-526**, as last amended by Chapter 227, Laws of Utah 1999
- 32           **77-18-11**, as last amended by Chapter 227, Laws of Utah 1999

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

34           Section 1. Section **41-1a-115** is amended to read:

35           **41-1a-115. Division records -- Copies -- Fees.**

- 36           (1) The division shall file each application received.
- 37           (2) The division shall keep a record of each registration on a calendar year basis as
- 38 follows:
- 39           (a) under a distinctive registration number assigned to the vehicle, vessel, or outboard
- 40 motor;
- 41           (b) alphabetically, under the name of the owner of the vehicle, vessel, or outboard motor;
- 42           (c) under the identification number of the vehicle, vessel, or outboard motor; and
- 43           (d) in any manner the division finds desirable for compiling statistical information or of
- 44 comparative value for use in determining registration fees in future years.
- 45           (3) (a) The division shall maintain a current record of each certificate of title it issues.
- 46           (b) (i) The division shall file and retain every surrendered certificate of title and every
- 47 application for title to permit the tracing of title of the vehicles designated in them.
- 48           (ii) The retention period for division records shall be set by the Division of Archives and
- 49 Records Service in accordance with Title 63, Chapter 2, Government Records Access and
- 50 Management Act.
- 51           (4) (a) The commission and officers of the division as the commission designates may
- 52 prepare under the seal of the division and deliver upon request a certified copy of any record of the
- 53 division, including microfilmed records~~[-charging]~~.
- 54           (b) The commission may establish a fee~~[-determined by the commission pursuant to]~~
- 55 through the process under Section 63-38-3.2~~[-]~~ for each document authenticated.
- 56           ~~[(b)]~~ (c) The application shall include the requested information to identify the applicant.
- 57           ~~[(e)]~~ (d) Each certified copy is admissible in any proceeding in any court in the same
- 58 manner as the original.

59 (5) The division shall comply with Title 63, Chapter 2, Government Records Access and  
60 Management Act.

61 Section 2. Section **41-6-35** is amended to read:

62 **41-6-35. Accident reports -- Duty of operator and investigative officer to forward or**  
63 **render -- Copies -- Fee.**

64 (1) The department may require any operator of a vehicle involved in an accident resulting  
65 in injury to or death of any person or total property damage to the apparent extent of \$1,000 or  
66 more to forward within ten days after the request:

67 (a) a written report of the accident to the department; and

68 (b) a supplemental report when the original report is insufficient in the opinion of the  
69 department.

70 (2) The department may require witnesses of accidents to render reports to the department.

71 (3) A written accident report is not required under this section from any person who is  
72 physically incapable of making a report, during his period of incapacity.

73 (4) (a) Every peace officer who in the regular course of duty investigates a motor vehicle  
74 accident described under Subsection (1) shall file the original or an electronic copy of the report  
75 of the accident with the department within ten days after completing the investigation.

76 (b) The report shall be made either at the time of and at the scene of the accident or later  
77 by interviewing participants or witnesses.

78 (5) (a) The written reports required to be filed with the department by peace officers and  
79 the information in them are not privileged or confidential.

80 (b) The department may establish a fee for a copy of the report filed by the peace officer  
81 under Subsection (4) through the process under Section 63-38-3.2.

82 Section 3. Section **41-6-44.10** is amended to read:

83 **41-6-44.10. Implied consent to chemical tests for alcohol or drug -- Number of tests**  
84 **-- Refusal -- Warning, report -- Hearing, revocation of license -- Appeal -- Person incapable**  
85 **of refusal -- Results of test available -- Who may give test -- Evidence -- Copies of records --**  
86 **Fees.**

87 (1) (a) A person operating a motor vehicle in this state is considered to have given his  
88 consent to a chemical test or tests of his breath, blood, or urine for the purpose of determining  
89 whether he was operating or in actual physical control of a motor vehicle while having a blood or

90 breath alcohol content statutorily prohibited under Section 41-6-44, 53-3-231, or 53-3-232, while  
91 under the influence of alcohol, any drug, or combination of alcohol and any drug under Section  
92 41-6-44, or while having any measurable controlled substance or metabolite of a controlled  
93 substance in the person's body in violation of Section 41-6-44.6, if the test is or tests are  
94 administered at the direction of a peace officer having grounds to believe that person to have been  
95 operating or in actual physical control of a motor vehicle while having a blood or breath alcohol  
96 content statutorily prohibited under Section 41-6-44, 53-3-231, or 53-3-232, or while under the  
97 influence of alcohol, any drug, or combination of alcohol and any drug under Section 41-6-44, or  
98 while having any measurable controlled substance or metabolite of a controlled substance in the  
99 person's body in violation of Section 41-6-44.6.

100 (b) (i) The peace officer determines which of the tests are administered and how many of  
101 them are administered.

102 (ii) If an officer requests more than one test, refusal by a person to take one or more  
103 requested tests, even though he does submit to any other requested test or tests, is a refusal under  
104 this section.

105 (c) (i) A person who has been requested under this section to submit to a chemical test or  
106 tests of his breath, blood, or urine, may not select the test or tests to be administered.

107 (ii) The failure or inability of a peace officer to arrange for any specific chemical test is  
108 not a defense to taking a test requested by a peace officer, and it is not a defense in any criminal,  
109 civil, or administrative proceeding resulting from a person's refusal to submit to the requested test  
110 or tests.

111 (2) (a) If the person has been placed under arrest, has then been requested by a peace  
112 officer to submit to any one or more of the chemical tests under Subsection (1), and refuses to  
113 submit to any chemical test requested, the person shall be warned by the peace officer requesting  
114 the test or tests that a refusal to submit to the test or tests can result in revocation of the person's  
115 license to operate a motor vehicle.

116 (b) Following the warning under Subsection (a), if the person does not immediately request  
117 that the chemical test or tests as offered by a peace officer be administered a peace officer shall  
118 serve on the person, on behalf of the Driver License Division, immediate notice of the Driver  
119 License Division's intention to revoke the person's privilege or license to operate a motor vehicle.  
120 When the officer serves the immediate notice on behalf of the Driver License Division, he shall:

- 121 (i) take the Utah license certificate or permit, if any, of the operator;
- 122 (ii) issue a temporary license effective for only 29 days; and
- 123 (iii) supply to the operator, on a form approved by the Driver License Division, basic  
124 information regarding how to obtain a hearing before the Driver License Division.
- 125 (c) A citation issued by a peace officer may, if approved as to form by the Driver License  
126 Division, serve also as the temporary license.
- 127 (d) As a matter of procedure, the peace officer shall submit a signed report, within ten days  
128 after the date of the arrest, that he had grounds to believe the arrested person had been operating  
129 or was in actual physical control of a motor vehicle while having a blood or breath alcohol content  
130 statutorily prohibited under Section 41-6-44, 53-3-231, or 53-3-232, or while under the influence  
131 of alcohol, any drug, or combination of alcohol and any drug under Section 41-6-44, or while  
132 having any measurable controlled substance or metabolite of a controlled substance in the person's  
133 body in violation of Section 41-6-44.6, and that the person had refused to submit to a chemical test  
134 or tests under Subsection (1).
- 135 (e) (i) A person who has been notified of the Driver License Division's intention to revoke  
136 his license under this section is entitled to a hearing.
- 137 (ii) A request for the hearing shall be made in writing within ten days after the date of the  
138 arrest.
- 139 (iii) Upon written request, the division shall grant to the person an opportunity to be heard  
140 within 29 days after the date of arrest.
- 141 (iv) If the person does not make a timely written request for a hearing before the division,  
142 his privilege to operate a motor vehicle in the state is revoked beginning on the 30th day after the  
143 date of arrest for a period of:
- 144 (A) one year unless Subsection (2)(e)(iv)(B) applies; or
- 145 (B) 18 months if the person has had a previous license sanction after July 1, 1993, under  
146 this section, Section 41-6-44.6, 53-3-223, 53-3-231, 53-3-232, or a conviction after July 1, 1993,  
147 under Section 41-6-44.
- 148 (f) If a hearing is requested by the person, the hearing shall be conducted by the Driver  
149 License Division in the county in which the offense occurred, unless the division and the person  
150 both agree that the hearing may be held in some other county.
- 151 (g) The hearing shall be documented and shall cover the issues of:

152 (i) whether a peace officer had reasonable grounds to believe that a person was operating  
153 a motor vehicle in violation of Section 41-6-44, 41-6-44.6, or 53-3-231; and

154 (ii) whether the person refused to submit to the test.

155 (h) (i) In connection with the hearing, the division or its authorized agent:

156 (A) may administer oaths and may issue subpoenas for the attendance of witnesses and the  
157 production of relevant books and papers; and

158 (B) shall issue subpoenas for the attendance of necessary peace officers.

159 (ii) The division shall pay witness fees and mileage from the Transportation Fund in  
160 accordance with the rates established in Section 21-5-4.

161 (i) If after a hearing, the Driver License Division determines that the person was requested  
162 to submit to a chemical test or tests and refused to submit to the test or tests, or if the person fails  
163 to appear before the Driver License Division as required in the notice, the Driver License Division  
164 shall revoke his license or permit to operate a motor vehicle in Utah beginning on the date the  
165 hearing is held for a period of:

166 (i) (A) one year unless Subsection (2)(i)(i)(B) applies; or

167 (B) 18 months if the person has had a previous license sanction after July 1, 1993, under  
168 this section, Section 41-6-44.6, 53-3-223, 53-3-231, 53-3-232, or a conviction after July 1, 1993,  
169 under Section 41-6-44.

170 (ii) The Driver License Division shall also assess against the person, in addition to any fee  
171 imposed under Subsection 53-3-205(14), a fee under Section 53-3-105, which shall be paid before  
172 the person's driving privilege is reinstated, to cover administrative costs.

173 (iii) The fee shall be cancelled if the person obtains an unappealed court decision  
174 following a proceeding allowed under this Subsection (2) that the revocation was improper.

175 (j) (i) Any person whose license has been revoked by the Driver License Division under  
176 this section may seek judicial review.

177 (ii) Judicial review of an informal adjudicative proceeding is a trial. Venue is in the  
178 district court in the county in which the offense occurred.

179 (3) Any person who is dead, unconscious, or in any other condition rendering him  
180 incapable of refusal to submit to any chemical test or tests is considered to not have withdrawn the  
181 consent provided for in Subsection (1), and the test or tests may be administered whether the  
182 person has been arrested or not.

183 (4) Upon the request of the person who was tested, the results of the test or tests shall be  
184 made available to him.

185 (5) (a) Only a physician, registered nurse, practical nurse, or person authorized under  
186 Section 26-1-30, acting at the request of a peace officer, may withdraw blood to determine the  
187 alcoholic or drug content. This limitation does not apply to taking a urine or breath specimen.

188 (b) Any physician, registered nurse, practical nurse, or person authorized under Section  
189 26-1-30 who, at the direction of a peace officer, draws a sample of blood from any person whom  
190 a peace officer has reason to believe is driving in violation of this chapter, or hospital or medical  
191 facility at which the sample is drawn, is immune from any civil or criminal liability arising from  
192 drawing the sample, if the test is administered according to standard medical practice.

193 (6) (a) The person to be tested may, at his own expense, have a physician of his own  
194 choice administer a chemical test in addition to the test or tests administered at the direction of a  
195 peace officer.

196 (b) The failure or inability to obtain the additional test does not affect admissibility of the  
197 results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or  
198 tests to be taken at the direction of a peace officer.

199 (c) The additional test shall be subsequent to the test or tests administered at the direction  
200 of a peace officer.

201 (7) For the purpose of determining whether to submit to a chemical test or tests, the person  
202 to be tested does not have the right to consult an attorney or have an attorney, physician, or other  
203 person present as a condition for the taking of any test.

204 (8) If a person under arrest refuses to submit to a chemical test or tests or any additional  
205 test under this section, evidence of any refusal is admissible in any civil or criminal action or  
206 proceeding arising out of acts alleged to have been committed while the person was operating or  
207 in actual physical control of a motor vehicle while under the influence of alcohol, any drug,  
208 combination of alcohol and any drug, or while having any measurable controlled substance or  
209 metabolite of a controlled substance in the person's body.

210 (9) The division may establish fees for copies of records under this section though the  
211 process under Section 63-38-3.2.

212 Section 4. Section **53-3-105** is amended to read:

213 **53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling, and**

214 **identification cards.**

215 (1) The [following] division may establish fees [apply] through the process under Section  
216 63-38-3.2 for services regarding various classes and types of licenses issued under this chapter,  
217 including:

218 (a) tests required to obtain any license;

219 (b) renewals, extensions, endorsements, and reinstatements;

220 ~~[(1) An original class D license application under Section 53-3-205 is \$20.]~~

221 ~~[(2) An original class M license application under Section 53-3-205 is \$22.50.]~~

222 ~~[(3) An original provisional license application for a class D license under Section~~  
223 ~~53-3-205 is \$25.]~~

224 ~~[(4) An original provisional license application for a class M license under Section~~  
225 ~~53-3-205 is \$27.50.]~~

226 ~~[(5) An original application for a motorcycle endorsement under Section 53-3-205 is~~  
227 ~~\$7.50.]~~

228 ~~[(6) An original application for a taxicab endorsement under Section 53-3-205 is \$5.]~~

229 ~~[(7) A renewal of a class D license under Section 53-3-214 is \$20 unless Subsection (13)~~  
230 ~~applies.]~~

231 ~~[(8) A renewal of a class M license under Section 53-3-214 is \$22.50.]~~

232 ~~[(9) A renewal of a provisional license application for a class D license under Section~~  
233 ~~53-3-214 is \$20.]~~

234 ~~[(10) A renewal of a provisional license application for a class M license under Section~~  
235 ~~53-3-214 is \$22.50.]~~

236 ~~[(11) A renewal of a motorcycle endorsement under Section 53-3-214 is \$7.50.]~~

237 ~~[(12) A renewal of a taxicab endorsement under Section 53-3-214 is \$5.]~~

238 ~~[(13) A renewal of a class D license for a person 65 and older under Section 53-3-214 is~~  
239 ~~\$8.]~~

240 ~~[(14) An extension of a class D license under Section 53-3-214 is \$15 unless Subsection~~  
241 ~~(20) applies.]~~

242 ~~[(15) An extension of a class M license under Section 53-3-214 is \$17.50.]~~

243 ~~[(16) An extension of a provisional license application for a class D license under Section~~  
244 ~~53-3-214 is \$15.]~~



245           ~~[(17) An extension of a provisional license application for a class M license under Section~~  
246 ~~53-3-214 is \$17.50.]~~

247           ~~[(18) An extension of a motorcycle endorsement under Section 53-3-214 is \$7.50.]~~

248           ~~[(19) An extension of a taxicab endorsement under Section 53-3-214 is \$5.]~~

249           ~~[(20) An extension of a class D license for a person 65 and older under Section 53-3-214~~  
250 ~~is \$6.]~~

251           ~~[(21) An original or renewal application for a commercial class A, B, or C license or an~~  
252 ~~original or renewal of a provisional commercial class A or B license under Part 4 of this chapter~~  
253 ~~is:]~~

254           ~~[(a) \$35 for the written test; and]~~

255           ~~[(b) \$55 for the skills test.]~~

256           ~~[(22) Each original CDL endorsement for passengers, hazardous material, double or triple~~  
257 ~~trailers, or tankers is \$5.]~~

258           ~~[(23) An original CDL endorsement for a school bus under Part 4 of this chapter is \$5.]~~

259           ~~[(24) A renewal of a CDL endorsement under Part 4 of this chapter is \$5.]~~

260           ~~[(25) A retake of a CDL written or a CDL skills test provided for in Section 53-3-205 is~~  
261 ~~\$15.]~~

262           ~~[(26) A retake of a CDL endorsement test provided for in Section 53-3-205 is \$5.]~~

263           ~~[(27) A duplicate class A, B, C, D, or M license certificate under Section 53-3-215 is \$13.]~~

264           ~~[(28) (a) A license reinstatement application under Section 53-3-205 is \$25.]~~

265           ~~[(b) A (c) license reinstatement application under Section 53-3-205 for an alcohol, drug,~~  
266 ~~or combination of alcohol and any drug-related offense [is \$25 in addition to the fee under~~  
267 ~~Subsection (28)(a).];~~

268           ~~[(29) (d) [An administrative fee for] license reinstatement after an alcohol, drug, or~~  
269 ~~combination of alcohol and any drug-related offense under Section 41-6-44.10, 53-3-223, or~~  
270 ~~53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under Part~~  
271 ~~4 of this chapter [is \$150. This administrative fee is in addition to the fees under Subsection (28).];~~  
272 ~~and~~

273           ~~[(30) (a) (e) [An administrative fee for] providing the driving record of a driver under~~  
274 ~~Section 53-3-104 or 53-3-420 [is \$4].~~

275           ~~[(b) (2) The division may not charge for a report furnished under Section 53-3-104 to a~~

276 municipal, county, state, or federal agency.

277 ~~[(31) A]~~ (3) The division may establish fees through the process under Section 63-38-3.2

278 for:

279 (a) rescheduling [fee] under Section 53-3-205 or 53-3-407 [is \$25.]; and

280 ~~[(32) A]~~ (b) an identification card application under Section 53-3-808 [is \$8].

281 Section 5. Section **53-3-303.5** is amended to read:

282 **53-3-303.5. Driver License Medical Advisory Board -- License through waiver -- Fee.**

283 (1) The Driver License Medical Advisory Board shall:

284 (a) advise the director of the division; and

285 (b) establish and recommend written functional ability profile guidelines and standards for  
286 determining the physical, mental, and emotional capabilities of applicants for specific types of  
287 licenses, appropriate to various driving abilities.

288 (2) (a) The Driver License Medical Advisory Board shall establish fitness standards,  
289 including provisions for a waiver of specified federal driver's physical qualifications, for intrastate  
290 commercial driver licenses under Title 53, Chapter 3, Part 4, Uniform Commercial Driver License  
291 Act.

292 (b) The standards under this Subsection (2) may only be implemented if the United States  
293 Department of Transportation (USDOT) will not impose any sanctions, including funding  
294 sanctions, against the state of Utah.

295 (3) In case of uncertainty of interpretation of these guidelines and standards, or in special  
296 circumstances, applicants may request a review of any division decision by a panel of board  
297 members. All of the actions of the director and board are subject to judicial review.

298 (4) (a) If the applicant for an intrastate commercial driver license under Subsection (2)  
299 applies for the license under a waiver program, the applicant shall bear any costs directly  
300 associated with the cost of administration of the waiver program, with respect to the applicant's  
301 application, in addition to any fees required under Section 53-3-105.

302 (b) The division ~~[shall]~~ may establish ~~[any additional]~~ a fee ~~[necessary]~~ to administer the  
303 license under this Subsection (4) ~~[in accordance with]~~ through the process under Section  
304 63-38-3.2.

305 Section 6. Section **53-3-506** is amended to read:

306 **53-3-506. License expiration and renewal -- Fee required -- Disposition of revenue.**

307 (1) (a) All commercial driver training school licenses and instructor licenses expire on the  
308 last day of the calendar year and may be renewed upon application to the commissioner as  
309 prescribed by rule.

310 (b) Each application for an original [~~or~~], renewal, duplicate, or reinstatement of a school  
311 license or [original or renewal] instructor license shall be accompanied by a fee [determined]  
312 established by the department through the process under Section 63-38-3.2.

313 (c) A license fee may not be refunded if the license is rejected, suspended, or revoked.

314 (2) The license fees collected under this part shall be placed in a fund designated as the  
315 "Commercial Driver Training Law Fund" and shall be used under the supervision and direction  
316 of the director of the Division of Finance for the administration of this part.

317 Section 7. Section **53-5-707** is amended to read:

318 **53-5-707. Permit -- Fees -- Disposition.**

319 (1) Each applicant for a permit shall pay a fee [~~of \$35~~] at the time of filing an application.  
320 The initial fee shall be waived for an applicant who is a law enforcement officer under Section  
321 53-13-103.

322 [~~(2) The renewal fee for the permit is \$10.~~]

323 [~~(3) The replacement fee for the permit is \$10.~~]

324 [~~(4) The late fee for the renewal permit is \$7.50.~~]

325 (2) The fees under this section for a permit, or the renewal, replacement, or late fee for a  
326 permit are established by the division through the process under Section 63-38-3.2.

327 [~~(5)~~] (3) All fees shall promptly be deposited in the state treasury and credited to the  
328 General Fund.

329 [~~(6)~~] (4) The division may collect any fees charged by an outside agency for additional  
330 services required by statute as a prerequisite for issuance of a permit. The division shall promptly  
331 forward any fees collected to the appropriate agency.

332 Section 8. Section **53-7-215** is amended to read:

333 **53-7-215. Portable fire extinguishers -- Certificate of registration -- Fee -- Persons**  
334 **not subject to part.**

335 (1) The filling or charging of portable fire extinguishers prior to initial sale by the  
336 manufacturer is not subject to this part.

337 (2) Any firm that maintains its own fully equipped and specially staffed fire prevention,

338 fire protection, and fire extinguisher servicing facilities is not subject to the licensing provisions  
339 of this part if it services only its own portable fire extinguishers.

340 (3) (a) Individuals shall maintain a current certificate of registration.

341 (b) Individuals may obtain a certificate of registration or a duplicate of the certificate by:

342 (i) applying in writing on forms provided by the division; and

343 (ii) paying a fee established by the division through the process under Section 63-38-3.2.

344 Section 9. Section **53-7-216** is amended to read:

345 **53-7-216. Portable fire extinguishers -- Certification required to service --**

346 **Certification -- Fees.**

347 (1) Each firm engaged in the business of servicing portable fire extinguishers or automatic  
348 fire suppression systems that automatically detect fire and discharge an approved fire extinguishing  
349 agent onto or in the area of the fire shall be certified by the state fire marshal.

350 (2) An application for certification shall be in writing, on forms prescribed by the board,  
351 and require evidence of competency.

352 (3) The board may establish [~~a fee under~~] certification fees through the process under  
353 Section 63-38-3.2 [tø]. The fee shall be paid upon application for certification.

354 (4) This section does not apply to standpipe systems, deluge systems, or automatic fire  
355 sprinkler systems.

356 Section 10. Section **53-7-217** is amended to read:

357 **53-7-217. Portable fire extinguishers -- Permit required to perform hydrostatic**  
358 **testing -- Fee.**

359 Each firm performing hydrostatic testing of portable fire extinguishers shall:

360 (1) perform the tests in accordance with the specifications of the United States Department  
361 of Transportation for compressed gas cylinders; and

362 (2) obtain a permit from the division by applying in writing on forms provided by the  
363 division and paying a fee established by the division through the process under Section 63-38-3.2.

364 Section 11. Section **53-7-223** is amended to read:

365 **53-7-223. State license for display or special effects operators -- Permit -- Fee --**

366 **Division duties -- Revocation.**

367 (1) A person may not purchase, possess, or discharge display or special effects fireworks  
368 unless the person has obtained a display or special effects operator license from the division.

- 369 (2) The division shall:
- 370 (a) issue an annual license to any display or special effects operator who:
- 371 (i) applies for the permit;
- 372 (ii) pays a [~~\$10~~] fee established by the division through the process under Section
- 373 63-38-3.2;
- 374 (iii) demonstrates proof of competence; and
- 375 (iv) certifies that he will comply with the rules governing placement and discharge of
- 376 fireworks established by the board;
- 377 (b) provide the licensee with a copy of the rules governing placement and discharge of
- 378 fireworks made under Section 53-7-204; and
- 379 (c) together with county and municipal officers enforce Sections 53-7-220 through
- 380 53-7-225.
- 381 (3) The division may:
- 382 (a) revoke a license issued under this section for cause;
- 383 (b) seize display and special effects fireworks, fireworks, and unclassified fireworks that
- 384 are offered for sale, sold, or in the possession of an individual in violation of Sections 53-7-220
- 385 through 53-7-225; and
- 386 (c) create application and certification forms.
- 387 Section 12. Section **53-7-224** is amended to read:
- 388 **53-7-224. Licensing importers and wholesalers -- Fee.**
- 389 The division shall:
- 390 (1) annually license each importer and wholesaler of pyrotechnic devices; and
- 391 (2) charge an annual license fee [~~of \$250~~] established by the division through the process
- 392 under Section 63-38-3.2.
- 393 Section 13. Section **53-7-306** is amended to read:
- 394 **53-7-306. Duties and powers of the board -- Fees.**
- 395 (1) The board shall monitor rates charged in the industry for container removal.
- 396 (2) The board may:
- 397 (a) set civil penalties for violation of any rule or order made under this part;
- 398 (b) in conducting hearings on the issuance or revocation of any license:
- 399 (i) compel the attendance of witnesses by subpoena;

400 (ii) require the production of any records or documents determined by it to be pertinent to  
401 the subject matter of the hearing; and

402 (iii) apply to the district court of the county where the hearing is held for an order citing  
403 any applicant or witness for contempt, and for failure to attend, testify, or produce required  
404 documents;

405 (c) suspend or revoke licenses and refuse renewals of licenses if the applicant or licensee  
406 has been guilty of conduct harmful to either the safety or protection of the public;

407 (d) adopt bylaws for its procedures and methods of operation; and

408 (e) at the request of the enforcing authority, grant exceptions from its rules to  
409 accommodate local needs as it determines to be in the best interest of public safety or the persons  
410 using LPG materials or services.

411 (3) The board shall, in accordance with Section [~~53-7-314~~] 63-38-3.2, establish fees as  
412 necessary to cover the cost of administering this section.

413 Section 14. Section **53-7-309** is amended to read:

414 **53-7-309. Classification of applicants and licensees -- Fees.**

415 (1) To administer this part, the board shall classify all applicants and licensees as follows:

416 (a) Class 1: a licensed dealer who:

417 (i) is engaged in the business of installing gas appliances or systems for the use of LPG;

418 (ii) sells, fills, refills, delivers, or is permitted to deliver any LPG; or

419 (iii) is involved under both Subsection (i) and (ii).

420 (b) Class 2: a business engaged in the sale, transportation, and exchange of cylinders, or  
421 engaged in more than one of these, but not transporting or transferring gas in liquid.

422 (c) Class 3: a business not engaged in the sale of LPG, but engaged in the sale and  
423 installation of gas appliances or LPG systems.

424 (d) Class 4: those businesses not specifically within classification 1, 2, or 3 may at the  
425 discretion of the board be issued special licenses.

426 (2) (a) Any license granted under this section entitles the licensee to operate a staffed plant  
427 or facility consistent with the license at one location, which is stated in the license, under Section  
428 53-7-310.

429 (b) For each additional staffed plant or facility owned or operated by the licensee, the  
430 licensee shall register the additional location with the board and pay an additional annual fee[, to

431 ~~be set in accordance with Section 53-7-314].~~

432 (3) The fees under this section are established by the division through the process under  
433 Section 63-38-3.2.

434 Section 15. Section **53-7-311** is amended to read:

435 **53-7-311. Certification of licensees for certain activities -- Fees.**

436 (1) A person that transports or dispenses LPG or that installs, repairs, or services  
437 appliances, containers, equipment, systems, or piping for the use of LPG shall be certified by the  
438 division by passing an appropriate examination based on the safety requirements of the board.

439 (2) (a) A trainee employee is exempt from this examination for 45 working days, and until  
440 examined by a representative of the board. A trainee employee, during the 45-day period, shall  
441 be supervised by a qualified instructor.

442 (b) Any LPG licensee hiring a trainee shall, within 20 days of the commencement of  
443 employment, notify the board, so that an examination may be scheduled. If the trainee fails to pass  
444 the examination, the trainee may retake it after additional instruction. Prior to retaking the exam,  
445 the trainee shall again be supervised by a qualified instructor.

446 ~~[(3)(a) The board shall establish a reasonable fee in accordance with Section 53-7-314 to~~  
447 ~~cover the costs of administering the examination.]~~

448 ~~[(b)]~~ (3) All examinations shall be administered by the division.

449 (4) The board shall establish certification and examination fees under this section through  
450 the process under Section 63-38-3.2.

451 Section 16. Section **53-7-312** is amended to read:

452 **53-7-312. Division approval of certain storage system plans -- Procedure --**  
453 **Inspections -- Fees.**

454 (1) (a) The complete plans and specifications for all systems involving the storage of more  
455 than 5,000 water gallons of LPG shall be submitted to the division by a person licensed under this  
456 part, and receive approval by the division before installation is started. The plans shall be drawn  
457 to scale and contain sufficient detail and clarity as necessary to indicate the nature and character  
458 of the proposed system and its compliance with this part.

459 (b) Two copies of the plans shall be submitted to the division and one copy shall be  
460 returned to the applicant with approval or disapproval indicated on it.

461 (2) (a) For dispensing systems for 5,000 water gallons or less of LPG, a detailed sketch

462 or plan shall be submitted to the division by a person licensed under this part, and receive approval  
463 by the division before installation is started.

464 (b) Two copies of the plans shall be submitted to the division and one copy shall be  
465 returned to the applicant with approval or disapproval indicated on it.

466 (3) The division shall establish fees for inspections under this section through the process  
467 under Section 63-38-3.2.

468 Section 17. Section **53-8-204** is amended to read:

469 **53-8-204. Division duties -- Official inspection stations -- Permits -- Fees --**

470 **Suspension or revocation -- Utah-based interstate commercial motor carriers.**

471 (1) The division shall:

472 (a) conduct examinations of every safety inspection station permit applicant and safety  
473 inspector certificate applicant to determine whether the applicant is properly equipped and  
474 qualified to make safety inspections;

475 (b) issue safety inspection station permits and safety inspector certificates to qualified  
476 applicants;

477 [~~(c) establish application, renewal, and reapplication fees in accordance with Section~~  
478 ~~63-38-3.2 for safety inspection station permits and safety inspector certificates;]~~

479 [~~(d)~~ (c) provide instructions and all necessary forms, including safety inspection  
480 certificates, to safety inspection stations for the inspection of motor vehicles and the issuance of  
481 the safety inspection certificates;

482 [~~(e)~~ (d) charge a [\$1.50] fee for each safety inspection certificate;

483 [~~(f)~~ (e) investigate complaints regarding safety inspection stations and safety inspectors;

484 [~~(g)~~ (f) compile and publish all applicable safety inspection laws, rules, instructions, and  
485 standards and distribute them to all safety inspection stations and provide updates to the compiled  
486 laws, rules, instructions, and standards as needed;

487 [~~(h) establish a fee in accordance with Section 63-38-3.2 to cover the cost of compiling~~  
488 ~~and publishing]~~

489 (g) compile and publish the safety inspection laws, rules, instructions, and standards and  
490 any updates; and

491 [~~(i)~~ (h) assist the council in conducting its meetings and hearings.

492 (2) (a) (i) Receipts from the fees established in accordance with Subsection [~~(1)(h)~~] (7) for



493 the compilation and publishing under Subsection (1)(g) are fixed collections to be used by the  
494 division for the expenses of the Utah Highway Patrol incurred under Subsection (1)(~~fh~~)(g).

495 (ii) Funds received in excess of the expenses under Subsection (1)(~~fh~~)(g) shall be  
496 deposited in the Transportation Fund.

497 (b) (i) The first \$.50 of the fee under Subsection (1)(~~e~~) (d) is a dedicated credit to be used  
498 solely by the Utah Highway Patrol for the expenses of administering this section.

499 (ii) Funds in excess of the first \$.50 collected under Subsection (1)(~~e~~)(d) shall be  
500 deposited in the Transportation Fund.

501 (iii) The dedicated credits described under Subsection (2)(b)(i) are in addition to any other  
502 appropriations provided to administer the safety inspection program duties under this section.

503 (3) The division may:

504 (a) before issuing a safety inspection permit, require an applicant, other than a fleet station  
505 or government station, to file a bond that will provide a guarantee that the applicant safety  
506 inspection station will make compensation for any damage to a motor vehicle during an inspection  
507 or adjustment due to negligence on the part of an applicant or his employees;

508 (b) establish procedures governing the issuance of safety inspection certificates to  
509 Utah-based interstate commercial motor carriers; and

510 (c) suspend, revoke, or refuse renewal of any safety inspection station permit issued when  
511 the division finds that the safety inspection station is not:

512 (i) properly equipped; or

513 (ii) complying with rules made by the division; and

514 (d) suspend, revoke, or refuse renewal of any safety inspection station permit or safety  
515 inspector certificate issued when the station or inspector has violated any safety inspection law or  
516 rule.

517 (4) The division shall maintain a record of safety inspection station permits and safety  
518 inspector certificates issued, suspended, revoked, or refused renewal under Subsection (3)(c).

519 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
520 division shall make rules:

521 (a) setting minimum standards covering the design, construction, condition, and operation  
522 of motor vehicle equipment for safely operating a motor vehicle on the highway;

523 (b) establishing motor vehicle safety inspection procedures to ensure a motor vehicle can

524 be operated safely;

525 (c) establishing safety inspection station building, equipment, and personnel requirements  
526 necessary to qualify to perform safety inspections;

527 (d) establishing age, training, examination, and renewal requirements to qualify for a safety  
528 inspector certificate;

529 (e) establishing requirements:

530 (i) designed to protect consumers from unwanted or unneeded repairs or adjustments;

531 (ii) for maintaining safety inspection records;

532 (iii) for providing reports to the division; and

533 (iv) for maintaining and protecting safety inspection certificates;

534 (f) establishing procedures for a motor vehicle that fails a safety inspection;

535 (g) setting bonding amounts for safety inspection stations if bonds are required under

536 Subsection (3)(a); and

537 (h) establishing procedures for a safety inspection station to follow if the station is going  
538 out of business.

539 (6) The rules of the division:

540 (a) shall conform as nearly as practical to federal motor vehicle safety standards including  
541 49 CFR 393, 396, 396 Appendix G, and Federal Motor Vehicle Safety Standards 205; and

542 (b) may incorporate by reference, in whole or in part, the federal standards under  
543 Subsection (6)(a) and nationally recognized and readily available standards and codes on motor  
544 vehicle safety.

545 (7) The division shall establish fees under this section through the process under Section  
546 63-38-3.2.

547 Section 18. Section **53-8-206** is amended to read:

548 **53-8-206. Safety inspection -- Station requirements -- Permits not transferable --**  
549 **Certificate of inspection -- Fees -- Unused certificates -- Suspension or revocation of permits.**

550 (1) The safety inspection required under Section 53-8-205 may only be performed:

551 (a) by a person certified by the division as a safety inspector; and

552 (b) at a safety inspection station with a valid safety inspection station permit issued by the  
553 division.

554 (2) A safety inspection station permit may not be assigned or transferred or used at any

555 location other than a designated location, and every safety inspection station permit shall be posted  
556 in a conspicuous place at the location designated.

557 (3) If required by the division, a record and report shall be made of every safety inspection  
558 and every safety inspection certificate issued.

559 (4) A safety inspection station holding a safety inspection station permit issued by the  
560 division may charge:

561 (a) a fee as reimbursement for the safety inspection certificate fee [~~as specified in~~] under  
562 Subsection 53-8-204(1)(e)(d); and

563 (b) a reasonable fee for labor in performing safety inspections [~~, not to exceed:~~].

564 [(i) ~~\$5 or less for motorcycles;~~]

565 [(ii) ~~unless Subsection (i) or (iii) applies, \$9 or less for motor vehicles; or~~]

566 [(iii) ~~\$12 or less for 4-wheel drive, split axle, and any motor vehicles that necessitate~~  
567 ~~disassembly of front hub or removal of rear axle for inspection.~~]

568 (5) The division shall establish the fees under this section through the process under  
569 Section 63-38-3.2.

570 [(5)] (6) A safety inspection station may return unused safety inspection certificates in a  
571 quantity of ten or more and shall be reimbursed by the division for the cost of the safety inspection  
572 certificates.

573 [(6)] (7) (a) Upon receiving notice of the suspension or revocation of a safety inspection  
574 station permit, the safety inspection station permit holder shall immediately terminate all safety  
575 inspection activities and return all safety inspection certificates and the safety inspection station  
576 permit to the division.

577 (b) The division shall issue a receipt for all unused safety inspection certificates.

578 Section 19. Section **53-9-111** is amended to read:

579 **53-9-111. License and registration fees -- Deposit in General Fund.**

580 (1) [Fees] The division shall establish fees for licensure and renewal [~~shall be as follows~~]  
581 through the process under Section 63-38-3.2, including fees for:

582 (a) [~~for~~] an original agency license application and license, [~~\$200,~~] plus an additional fee  
583 for the costs of fingerprint processing and background investigation;

584 (b) [~~for~~] the renewal of an agency license [~~, \$100~~];

585 (c) [~~for~~] an original registrant or apprentice license application and license, [~~\$100,~~] plus

586 an additional fee for the costs of fingerprint processing and background investigation;

587 (d) [for] the renewal of a registrant or apprentice license[~~-, \$50~~];

588 (e) [for] filing an agency renewal application more than 30 days after the expiration date  
589 of the license[~~-, a delinquency fee of \$50~~];

590 (f) [for] filing a registrant or apprentice renewal application more than 30 days after the  
591 expiration date of the registration[~~-, a delinquency fee of \$30~~];

592 (g) [for] the reinstatement of any license[~~-, \$50~~];

593 (h) [for] a duplicate identification card[~~-, \$10~~]; and

594 (i) [for] the fingerprint processing fee, [an] and this amount [that does] may not exceed  
595 the cost to the department charged by the Federal Bureau of Investigation for fingerprint processing  
596 for the purpose of obtaining federal criminal history record information.

597 (2) (a) The commissioner may renew a license granted under this chapter upon receipt of  
598 a renewal application on forms as prescribed by the commissioner and upon receipt of the fees  
599 [~~prescribed in~~] established under Subsection (1).

600 (b) The renewal of a license requires the filing of a surety bond as described in Subsections  
601 53-9-109(2) and (3). Renewal of a license [~~shall~~] may not be granted more than 90 days after  
602 expiration.

603 (c) A licensee may not engage in any activity subject to this chapter during any period  
604 between the date of expiration of the license and the renewal of the license.

605 (3) (a) The commissioner shall renew a suspended license if:

606 (i) the period of suspension has been completed;

607 (ii) the commissioner has received a renewal application from the applicant on forms  
608 prescribed by the commissioner; and

609 (iii) the applicant has:

610 (A) filed a surety bond as described by Subsections 53-9-109(2) and (3); and

611 (B) paid the fees required [~~by this section~~] for renewal, including a delinquency fee if the  
612 application is not received by the commissioner within 30 days of the termination of the  
613 suspension.

614 (b) Renewal of the license does not entitle the licensee, while the license remains  
615 suspended and until it is reinstated, to engage in any activity regulated by this chapter, or in any  
616 other activity or conduct in violation of the order or judgment by which the license was suspended.

617 (4) The commissioner shall not reinstate a revoked license or accept an application for a  
618 license from a person whose license has been revoked for at least one year from the date of  
619 revocation.

620 (5) All fees, except the fingerprint processing fee, collected by the department under this  
621 section shall be deposited in the General Fund.

622 Section 20. Section **53-10-108** is amended to read:

623 **53-10-108. Restrictions on access, use, and contents of division records -- Limited use**  
624 **of records for employment purposes -- Challenging accuracy of records -- Usage fees --**  
625 **Missing children records.**

626 (1) Dissemination of information from a criminal history record or warrant of arrest  
627 information from division files is limited to:

628 (a) criminal justice agencies for purposes of administration of criminal justice and for  
629 employment screening by criminal justice agencies;

630 (b) noncriminal justice agencies or individuals for any purpose authorized by statute,  
631 executive order, court rule, court order, or local ordinance;

632 (c) agencies or individuals for the purpose of obtaining required clearances connected with  
633 foreign travel or obtaining citizenship;

634 (d) (i) agencies or individuals pursuant to a specific agreement with a criminal justice  
635 agency to provide services required for the administration of criminal justice; and

636 (ii) the agreement shall specifically authorize access to data, limit the use of the data to  
637 purposes for which given, and ensure the security and confidentiality of the data;

638 (e) agencies or individuals for the purpose of a preplacement adoptive study, in accordance  
639 with the requirements of Section 78-30-3.5;

640 (f) (i) agencies and individuals as the commissioner authorizes for the express purpose of  
641 research, evaluative, or statistical activities pursuant to an agreement with a criminal justice  
642 agency; and

643 (ii) private security agencies through guidelines established by the commissioner for  
644 employment background checks for their own employees and prospective employees;

645 (g) a qualifying entity for employment background checks for their own employees and  
646 persons who have applied for employment with the qualifying entity; and

647 (h) other agencies and individuals as the commissioner authorizes and finds necessary for

648 protection of life and property and for offender identification, apprehension, and prosecution  
649 pursuant to an agreement.

650 (2) An agreement under Subsection (1)(f) or ~~[(1)](h)~~ shall specifically authorize access to  
651 data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity  
652 of individuals to whom the information relates, and ensure the confidentiality and security of the  
653 data.

654 (3) (a) Before requesting information under Subsection (1)(g), a qualifying entity must  
655 obtain a signed waiver from the person whose information is requested.

656 (b) The waiver must notify the signee:

657 (i) that a criminal history background check will be conducted;

658 (ii) who will see the information; and

659 (iii) how the information will be used.

660 (c) Information received by a qualifying entity under Subsection (1)(g) may only be:

661 (i) available to persons involved in the hiring or background investigation of the employee;

662 and

663 (ii) used for the purpose of assisting in making an employment or promotion decision.

664 (d) A person who disseminates or uses information obtained from the division under  
665 Subsection (1)(g) for purposes other than those specified under Subsection (3)(c), in addition to  
666 any penalties provided under this section, is subject to civil liability.

667 (e) A qualifying entity that obtains information under Subsection (1)(g) shall provide the  
668 employee or employment applicant an opportunity to:

669 (i) review the information received as provided under Subsection (8); and

670 (ii) respond to any information received.

671 (f) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
672 division may make rules to implement this Subsection (3).

673 ~~[(g)(i) The applicant fingerprint card fee under Subsection (1)(g) is \$15.]~~

674 ~~[(ii) The name check fee under Subsection (1)(g) is \$10.]~~

675 ~~[(iii) These]~~ (g) (i) The division shall establish fees ~~[remain in effect until changed by the~~  
676 division] through the process under Section 63-38-3.2 for applicant fingerprint cards and name  
677 checks.

678 ~~[(iv)]~~ (ii) Funds generated under Subsections (3)(g)(i)~~[-(3)(g)(ii).]~~ and (8)(b) shall be

679 deposited in the General Fund as a dedicated credit by the department to cover the costs incurred  
680 in providing the information.

681 (h) The division or its employees are not liable for defamation, invasion of privacy,  
682 negligence, or any other claim in connection with the contents of information disseminated under  
683 Subsection (1)(g).

684 (4) Any criminal history record information obtained from division files may be used only  
685 for the purposes for which it was provided and may not be further disseminated.

686 (5) If an individual has no prior criminal convictions, criminal history record information  
687 contained in the division's computerized criminal history files may not include arrest or disposition  
688 data concerning an individual who has been acquitted, his charges dismissed, or when no  
689 complaint against him has been filed.

690 (6) (a) This section does not preclude the use of the division's central computing facilities  
691 for the storage and retrieval of criminal history record information.

692 (b) This information shall be stored so it cannot be modified, destroyed, or accessed by  
693 unauthorized agencies or individuals.

694 (7) Direct access through remote computer terminals to criminal history record information  
695 in the division's files is limited to those agencies authorized by the commissioner under  
696 procedures designed to prevent unauthorized access to this information.

697 (8) (a) The commissioner shall establish procedures to allow an individual right of access  
698 to review his criminal history record information.

699 (b) A processing fee for the right of access service under Subsection (8)(a) is [~~\$10~~] \$15.  
700 This fee remains in effect until changed by the commissioner through the process under Section  
701 63-38-3.2.

702 (c) (i) The commissioner shall establish procedures for an individual to challenge the  
703 completeness and accuracy of criminal history record information contained in the division's  
704 computerized criminal history files regarding that individual.

705 (ii) These procedures shall include provisions for amending any information found to be  
706 inaccurate or incomplete.

707 (9) The private security agencies as provided in Subsection (1)(f)(ii):

708 (a) shall be charged for access; and

709 (b) shall be registered with the division according to rules made by the division under Title

710 63, Chapter 46a, Utah Administrative Rulemaking Act.

711 (10) Before providing information requested under this section, the division shall give  
712 priority to criminal justice agencies needs.

713 (11) (a) Misuse of access to criminal history record information is a class B misdemeanor.

714 (b) The commissioner shall be informed of the misuse.

715 Section 21. Section **53-11-115** is amended to read:

716 **53-11-115. License fees -- Deposit in General Fund.**

717 (1) [~~Fees~~] The division shall establish fees for licensure, registration, and renewal [~~are~~]  
718 through the process under Section 63-38-3.2, including fees for:

719 (a) for an original bail enforcement agent license application and license, [~~\$250,~~] which  
720 fee shall include the costs of fingerprint processing and background investigation;

721 (b) for the renewal of a bail enforcement agent or bail bond recovery agency license[~~;~~  
722 ~~\$150~~];

723 (c) for an original bail recovery agent license application and license, [~~\$150,~~] which fee  
724 shall include the costs of fingerprint processing and background investigation;

725 (d) for the renewal of each bail recovery agent license[~~;~~ ~~\$100~~];

726 (e) for an original bail recovery apprentice license application and license, [~~\$150,~~] which  
727 fee shall include the costs of fingerprint processing and background investigation;

728 (f) for the renewal of each bail recovery apprentice license[~~;~~ ~~\$100~~];

729 (g) for filing a renewal application under Subsection (1)(b) more than 30 days after the  
730 expiration date of the license[~~;~~ ~~a delinquency fee of \$50~~];

731 (h) for filing a renewal application under Subsection (1)(d) more than 30 days after the  
732 expiration date of the registration[~~;~~ ~~a delinquency fee of \$30~~];

733 (i) for filing a renewal application under Subsection (1)(f) more than 30 days after the  
734 expiration date of the apprentice license[~~;~~ ~~a delinquency fee of \$30~~];

735 (j) for the reinstatement of a bail enforcement agent or bail bond recovery agency license[~~;~~  
736 ~~\$50~~];

737 (k) for a duplicate identification card[~~;~~ ~~\$10~~]; and

738 (l) for reinstatement of an identification card[~~;~~ ~~\$10~~].

739 (2) (a) The board may renew a license granted under this chapter upon receipt of an  
740 application on forms as prescribed by the board and upon receipt of the fees [~~prescribed in~~] under



741 Subsection (1).

742 (b) The renewal of a bail enforcement agent, bail recovery agent, or bail recovery  
743 apprentice license requires the filing of a liability insurance policy as described in Subsections  
744 53-9-109(2) and (3).

745 (c) A license may not be renewed more than 90 days after its expiration.

746 (d) A licensee may not engage in any activity subject to this chapter during any period  
747 between the date of expiration of the license and the renewal of the license.

748 (3) (a) The board may reinstate a suspended license upon completion of the term of  
749 suspension.

750 (b) Renewal of the license does not entitle the licensee, while the license remains  
751 suspended and until it is reinstated, to engage in any activity regulated by this chapter, or in any  
752 other activity or conduct in violation of the order or judgment by which the license was suspended.

753 (4) The board may not reinstate a revoked license or accept an application for a license  
754 from a person whose license has been revoked for at least one year after the date of revocation.

755 (5) All fees collected by the department under this section shall be deposited in the General  
756 Fund.

757 Section 22. Section **76-10-526** is amended to read:

758 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**  
759 **Exemption for concealed firearm permit holders.**

760 (1) A criminal background check required by this section shall only apply to the purchase  
761 of a handgun until federal law requires the background check to extend to other firearms.

762 (2) At the time that federal law extends the criminal background check requirement to  
763 other firearms, the division shall make rules to extend the background checks required under this  
764 section to the other firearms.

765 (3) For purposes of this section, "valid permit to carry a concealed firearm" does not  
766 include a temporary permit issued pursuant to Section 53-5-705.

767 (4) To establish personal identification and residence in this state for purposes of this part,  
768 a dealer shall require any person receiving a firearm to present:

769 (a) one photo identification on a form issued by a governmental agency of the state; and

770 (b) one other documentation of residence which must show an address identical to that  
771 shown on the photo identification form.

772 (5) A criminal history background check is required for the sale of a firearm by a licensed  
773 firearm dealer in the state.

774 (6) Any person, except a dealer, purchasing a firearm from a dealer shall consent in writing  
775 to a criminal background check, on a form provided by the division. The form shall also contain  
776 the following information:

777 (a) the dealer identification number;

778 (b) the name and address of the person receiving the firearm;

779 (c) the date of birth, height, weight, eye color, and hair color of the person receiving the  
780 firearm; and

781 (d) the Social Security number or any other identification number of the person receiving  
782 the firearm.

783 (7) (a) The dealer shall send the form required by Subsection (6) to the division  
784 immediately upon its completion.

785 (b) No dealer shall sell or transfer any firearm to any person until the dealer has provided  
786 the division with the information in Subsection (6) and has received approval from the division  
787 under Subsection (8).

788 (8) The dealer shall make a request for criminal history background information by  
789 telephone or other electronic means to the division and shall receive approval or denial of the  
790 inquiry by telephone or other electronic means.

791 (9) When the dealer calls for or requests a criminal history background check, the division  
792 shall:

793 (a) review the criminal history files to determine if the person is prohibited from  
794 purchasing, possessing, or transferring a firearm by state or federal law;

795 (b) inform the dealer that:

796 (i) the criminal record indicates the person is so prohibited; or

797 (ii) the person is approved for purchasing, possessing, or transferring a firearm;

798 (c) provide the dealer with a unique transaction number for that inquiry; and

799 (d) provide a response to the requesting dealer during the call for a criminal background,  
800 or by return call, or other electronic means, without delay, except in case of electronic failure or  
801 other circumstances beyond the control of the division, the division shall advise the dealer of the  
802 reason for such delay and give the dealer an estimate of the length of such delay.

803 (10) The division shall not maintain any records of the criminal history background check  
804 longer than 20 days from the date of the dealer's request if the division determines that the person  
805 receiving the gun is not prohibited from purchasing, possessing, or transferring the firearm under  
806 state or federal law. However, the division shall maintain a log of requests containing the dealer's  
807 federal firearms number, the transaction number, and the transaction date for a period of 12  
808 months.

809 (11) If the criminal history background check discloses information indicating that the  
810 person attempting to purchase the firearm is prohibited from purchasing, possessing, or  
811 transferring a firearm, the division shall inform the law enforcement agency in the jurisdiction  
812 where the person resides.

813 (12) If a person is denied the right to purchase a firearm under this section, the person may  
814 review his criminal history information and may challenge or amend the information as provided  
815 in Section 53-10-108.

816 (13) The division shall make rules as provided in Title 63, Chapter 46a, Utah  
817 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records  
818 provided by the division pursuant to this part are in conformance with the requirements of the  
819 Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

820 (14) (a) All dealers shall collect a criminal history background check fee [~~which is \$7.50.~~  
821 ~~This fee remains in effect until changed~~] established by the division through the process under  
822 Section 63-38-3.2.

823 (b) The dealer shall forward at one time all fees collected for criminal history background  
824 checks performed during the month to the division by the last day of the month following the sale  
825 of a firearm. The division shall deposit the fees in the General Fund as dedicated credits to cover  
826 the cost of administering and conducting the criminal history background check program.

827 (15) A person with a concealed firearm permit issued pursuant to Title 53, Chapter 5, Part  
828 7, Concealed Weapon Act, shall be exempt from the background check and corresponding fee  
829 required in this section for the purchase of a firearm if:

830 (a) the person presents his concealed firearm permit to the dealer prior to purchase of the  
831 firearm; and

832 (b) the dealer verifies with the division that the person's concealed firearm permit is valid.  
833 Section 23. Section **77-18-11** is amended to read:

834           **77-18-11. Petition -- Expungement of conviction -- Certificate of eligibility -- Fee --**  
835 **Notice -- Written evaluation -- Objections -- Hearing.**

836           (1) A person convicted of a crime may petition the convicting court for an expungement  
837 of the record of conviction.

838           (2) (a) The court shall require receipt of a certificate of eligibility issued by the division  
839 under Section 77-18-12.

840           (b) The fee for each certificate of eligibility [~~is \$25. This fee remains in effect until~~  
841 ~~changed~~] shall be established by the division through the process under Section 63-38-3.2.

842           (c) Funds generated under Subsection (2)(b) shall be deposited in the General Fund as a  
843 dedicated credit by the department to cover the costs incurred in providing the information.

844           (3) The petition and certificate of eligibility shall be filed with the court and served upon  
845 the prosecuting attorney and the Department of Corrections.

846           (4) A victim shall receive notice of a petition for expungement if, prior to the entry of an  
847 expungement order, the victim or, in the case of a minor or a person who is incapacitated or  
848 deceased, the victim's next of kin or authorized representative, submits a written and signed  
849 request for notice to the office of the Department of Corrections in the judicial district in which  
850 the crime occurred or judgment was entered.

851           (5) The Department of Corrections shall serve notice of the expungement request by  
852 first-class mail to the victim at the most recent address of record on file with the department. The  
853 notice shall include a copy of the petition, certificate of eligibility, and statutes and rules applicable  
854 to the petition.

855           (6) The court in its discretion may request a written evaluation by Adult Parole and  
856 Probation of the Department of Corrections.

857           (a) The evaluation shall include a recommendation concerning the petition for  
858 expungement.

859           (b) If expungement is recommended, the evaluation shall include certification that the  
860 petitioner has completed all requirements of sentencing and probation or parole and state any  
861 rationale that would support or refute consideration for expungement.

862           (c) The conclusions and recommendations contained in the evaluation shall be provided  
863 to the petitioner and the prosecuting attorney.

864           (7) If the prosecuting attorney or a victim submits a written objection to the court

865 concerning the petition within 30 days after service of the notice, or if the petitioner objects to the  
866 conclusions and recommendations in the evaluation within 15 days after receipt of the conclusions  
867 and recommendations, the court shall set a date for a hearing and notify the prosecuting attorney  
868 for the jurisdiction, the petitioner, and the victim of the date set for the hearing.

869 (8) Any person who has relevant information about the petitioner may testify at the  
870 hearing.

871 (9) The prosecuting attorney may respond to the court with a recommendation or objection  
872 within 30 days.

873 (10) If an objection is not received under Subsection (7), the expungement may be granted  
874 without a hearing.

875 (11) A court may not expunge a conviction of a:

876 (a) capital felony;

877 (b) first degree felony;

878 (c) second degree forcible felony; or

879 (d) any sexual act against a minor.

880 Section 24. **Effective date.**

881 This act takes effect on July 1, 2000.

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**Legislative Review Note**  
**as of 11-18-99 2:44 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

**Committee Note**

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