

Representative Mike Thompson proposes the following substitute bill:

LEGAL PRESENCE PROVISIONS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Mike Thompson

LONG TITLE

General Description:

This bill modifies the State Affairs in General title, the Uniform Driver License Act, and the Utah Highway Patrol Act to amend legal presence provisions.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ prohibits a governmental entity from accepting a matricula card as proof of personal identification;
- ▶ repeals, as a substitute for a Social Security number, the use of a temporary identification number (ITIN) issued by the Internal Revenue Service for purposes of obtaining a driver license or identification card issued by the Driver License Division;
- ▶ requires an applicant for a driver license or identification card who does not provide a social security number to provide proof that the applicant:
 - is a citizen of another country;
 - does not qualify for a Social Security number; and
 - is legally present in the United States, as authorized under federal law;
- ▶ requires the Driver License Division to make rules for acceptable documentation of an applicant's identity and proof of legal presence; and



- 26 ▶ requires the Utah Highway Patrol to establish and implement procedures for:
- 27 • recognizing, identifying, and reporting of detained persons who are not legally
- 28 present in the United States;
- 29 • cooperating with the United States Citizenship and Immigration Services for the
- 30 enforcement of legal presence laws; and
- 31 • training troopers on the enforcement of legal presence laws.

32 **Monies Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 This bill takes effect on July 1, 2004.

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **53-3-104**, as last amended by Chapter 85, Laws of Utah 2001

39 **53-3-205**, as last amended by Chapter 30, Laws of Utah 2003

40 **53-3-804**, as last amended by Chapter 30, Laws of Utah 2003

41 ENACTS:

42 **53-8-108**, Utah Code Annotated 1953

43 **63-98-101**, Utah Code Annotated 1953

44 **63-98-102**, Utah Code Annotated 1953



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

47 Section 1. Section **53-3-104** is amended to read:

48 **53-3-104. Division duties.**

49 The division shall:

50 (1) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
51 make rules:

52 (a) for examining applicants for a license, as necessary for the safety and welfare of the
53 traveling public;

54 (b) for acceptable documentation of an applicant's identity, proof of legal presence, and
55 other proof or documentation required under this chapter;

56 [~~(b)~~] (c) regarding the restrictions to be imposed on a person driving a motor vehicle

57 with a temporary learner permit; and
58 [~~(c)~~] (d) for exemptions from licensing requirements as authorized in this chapter;
59 (2) examine each applicant according to the class of license applied for;
60 (3) license motor vehicle drivers;
61 (4) file every application for a license received by it and shall maintain indices
62 containing:
63 (a) all applications denied and the reason each was denied;
64 (b) all applications granted; and
65 (c) the name of every licensee whose license has been suspended, disqualified, or
66 revoked by the division and the reasons for the action;
67 (5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with
68 this chapter;
69 (6) file all accident reports and abstracts of court records of convictions received by it
70 under state law;
71 (7) maintain a record of each licensee showing his convictions and the traffic accidents
72 in which he has been involved where a conviction has resulted;
73 (8) consider the record of a licensee upon an application for renewal of a license and at
74 other appropriate times;
75 (9) search the license files, compile, and furnish a report on the driving record of any
76 person licensed in the state in accordance with Section 53-3-109;
77 (10) develop and implement a record system as required by Section 41-6-48.5;
78 (11) in accordance with Section 53A-13-208, establish:
79 (a) procedures and standards to certify teachers of driver education classes to
80 administer knowledge and skills tests;
81 (b) minimal standards for the tests; and
82 (c) procedures to enable school districts to administer or process any tests for students
83 to receive a class D operator's license;
84 (12) in accordance with Section 53-3-510, establish:
85 (a) procedures and standards to certify licensed instructors of commercial driver
86 training school courses to administer the skills test;
87 (b) minimal standards for the test; and

88 (c) procedures to enable licensed commercial driver training schools to administer or
89 process skills tests for students to receive a class D operator's license; and

90 (13) provide administrative support to the Driver License Medical Advisory Board
91 created in Section 53-3-303.

92 Section 2. Section **53-3-205** is amended to read:

93 **53-3-205. Application for license or endorsement -- Fee required -- Tests --**
94 **Expiration dates of licenses and endorsements -- Information required -- Previous**
95 **licenses surrendered -- Driving record transferred from other states -- Reinstatement --**
96 **Fee required -- License agreement.**

97 (1) An application for any original license, provisional license, or endorsement shall
98 be:

99 (a) made upon a form furnished by the division; and

100 (b) accompanied by a nonrefundable fee set under Section 53-3-105.

101 (2) An application and fee for an original class D license entitle the applicant to:

102 (a) not more than three attempts to pass both the knowledge and skills tests for a class
103 D license within six months of the date of the application;

104 (b) a learner permit if needed after the knowledge test is passed; and

105 (c) an original class D license and license certificate after all tests are passed.

106 (3) An application and fee for an original class M license entitle the applicant to:

107 (a) not more than three attempts to pass both the knowledge and skills tests for a class
108 M license within six months of the date of the application;

109 (b) a learner permit if needed after the knowledge test is passed; and

110 (c) an original class M license and license certificate after all tests are passed.

111 (4) An application and fee for a motorcycle or taxicab endorsement entitle the
112 applicant to:

113 (a) not more than three attempts to pass both the knowledge and skills tests within six
114 months of the date of the application;

115 (b) a motorcycle learner permit if needed after the motorcycle knowledge test is
116 passed; and

117 (c) a motorcycle or taxicab endorsement when all tests are passed.

118 (5) An application and fees for a commercial class A, B, or C license entitle the

119 applicant to:

120 (a) not more than two attempts to pass a knowledge test and not more than two
121 attempts to pass a skills test within six months of the date of the application;

122 (b) a commercial driver instruction permit if needed after the knowledge test is passed;
123 and

124 (c) an original commercial class A, B, or C license and license certificate when all
125 applicable tests are passed.

126 (6) An application and fee for a CDL endorsement entitle the applicant to:

127 (a) not more than two attempts to pass a knowledge test and not more than two
128 attempts to pass a skills test within six months of the date of the application; and

129 (b) a CDL endorsement when all tests are passed.

130 (7) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement
131 test within the number of attempts provided in Subsection (5) or (6), each test may be taken
132 two additional times within the six months for the fee provided in Section 53-3-105.

133 (8) (a) An original license expires on the birth date of the applicant in the fifth year
134 following the year the license certificate was issued.

135 (b) A renewal or an extension to a license expires on the birth date of the licensee in
136 the fifth year following the expiration date of the license certificate renewed or extended.

137 (c) A duplicate license expires on the same date as the last license certificate issued.

138 (d) An endorsement to a license expires on the same date as the license certificate
139 regardless of the date the endorsement was granted.

140 (e) A license and any endorsement to the license held by a person ordered to active
141 duty and stationed outside Utah in any of the armed forces of the United States, which expires
142 during the time period the person is stationed outside of the state, is valid until 90 days after the
143 person has been discharged or has left the service, unless the license is suspended, disqualified,
144 denied, or has been cancelled or revoked by the division, or the licensee updates the
145 information or photograph on the license certificate.

146 (9) (a) In addition to the information required by Title 63, Chapter 46b, Administrative
147 Procedures Act, for requests for agency action, each applicant shall have a Utah residence
148 address and each applicant shall:

149 (i) provide the applicant's:

- 150 (A) full legal name;
- 151 (B) birth date;
- 152 (C) gender;
- 153 (D) between July 1, 2002 and July 1, 2007, race in accordance with the categories
- 154 established by the United States Census Bureau;
- 155 (E) I Social Security number [~~or temporary identification number (ITIN) issued by~~
- 156 ~~the Internal Revenue Service for a person who does not qualify for a Social Security number~~];
- 157 [~~and~~] or
- 158 (II) (Aa) proof that the applicant is a citizen of a country other than the U.S.;
- 159 (Bb) proof that the applicant does not qualify for a Social Security number; and
- 160 (Cc) proof of legal presence in the United States, as authorized under federal law; and
- 161 (F) Utah residence address of the applicant;
- 162 (ii) provide a description of the applicant;
- 163 (iii) state whether the applicant has previously been licensed to drive a motor vehicle
- 164 and, if so, when and by what state or country;
- 165 (iv) state whether the applicant has ever had any license suspended, cancelled, revoked,
- 166 disqualified, or denied in the last six years, or whether the applicant has ever had any license
- 167 application refused, and if so, the date of and reason for the suspension, cancellation,
- 168 revocation, disqualification, denial, or refusal;
- 169 (v) state whether the applicant intends to make an anatomical gift under Title 26,
- 170 Chapter 28, Uniform Anatomical Gift Act, in compliance with Subsection (16);
- 171 (vi) provide all other information the division requires; and
- 172 (vii) sign the application which signature may include an electronic signature as
- 173 defined in Section 46-4-102.
- 174 (b) The division shall maintain on its computerized records an applicant's[~~-(i)~~] Social
- 175 Security number[~~;-or~~],
- 176 [~~(ii) temporary identification number (ITIN).~~]
- 177 (c) An applicant may not be denied a license for refusing to provide race information
- 178 required under Subsection (9)(a)(i)(D).
- 179 (10) The division shall require proof of every applicant's name, birthdate, and
- 180 birthplace by at least one of the following means:

- 181 (a) current license certificate;
- 182 (b) birth certificate;
- 183 (c) Selective Service registration; or
- 184 (d) other proof, including church records, family Bible notations, school records, or
- 185 other evidence considered acceptable by the division.

186 (11) When an applicant receives a license in another class, all previous license
187 certificates shall be surrendered and canceled. However, a disqualified commercial license may
188 not be canceled unless it expires before the new license certificate is issued.

189 (12) (a) When an application is received from a person previously licensed in another
190 state to drive a motor vehicle, the division shall request a copy of the driver's record from the
191 other state.

192 (b) When received, the driver's record becomes part of the driver's record in this state
193 with the same effect as though entered originally on the driver's record in this state.

194 (13) An application for reinstatement of a license after the suspension, cancellation,
195 disqualification, denial, or revocation of a previous license shall be accompanied by the
196 additional fee or fees specified in Section 53-3-105.

197 (14) A person who has an appointment with the division for testing and fails to keep
198 the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee
199 under Section 53-3-105.

200 (15) A person who applies for an original license or renewal of a license agrees that the
201 person's license is subject to any suspension or revocation authorized under this title or Title
202 41, Motor Vehicles.

203 (16) (a) The indication of intent under Subsection (9)(a)(v) shall be authenticated by
204 the licensee in accordance with division rule.

205 (b) (i) Notwithstanding Title 63, Chapter 2, Government Records Access and
206 Management Act, the division may, upon request, release to an organ procurement
207 organization, as defined in Section 26-28-2, the names and addresses of all persons who under
208 Subsection (9)(a)(v) indicate that they intend to make an anatomical gift.

- 209 (ii) An organ procurement organization may use released information only to:
 - 210 (A) obtain additional information for an anatomical gift registry; and
 - 211 (B) inform licensees of anatomical gift options, procedures, and benefits.

212 (17) The division and its employees are not liable, as a result of false or inaccurate
213 information provided under Subsection (9)(a)(v), for direct or indirect:

- 214 (a) loss;
- 215 (b) detriment; or
- 216 (c) injury.

217 Section 3. Section **53-3-804** is amended to read:

218 **53-3-804. Application for identification card -- Required information -- Release**
219 **of anatomical gift information.**

220 (1) To apply for an identification card, the applicant shall have a Utah residence
221 address and appear in person at any license examining station.

222 (2) The applicant shall provide the following information to the division:

- 223 (a) true and full legal name and Utah residence address;
- 224 (b) date of birth as set forth in a certified copy of the applicant's birth certificate, or
225 other satisfactory evidence of birth, which shall be attached to the application;

226 (c) (i) Social Security number; or

227 (ii) (A) proof that the applicant is a citizen of a country other than the U.S.;

228 (B) proof that the applicant does not qualify for a Social Security number; and

229 (C) proof of legal presence in the United States, as authorized under federal law;

230 ~~[(ii) temporary identification number (ITIN) issued by the Internal Revenue Service for~~
231 ~~a person who does not qualify for a Social Security number;]~~

232 (d) place of birth;

233 (e) height and weight;

234 (f) color of eyes and hair;

235 (g) between July 1, 2002 and July 1, 2007, race in accordance with the categories
236 established by the United States Census Bureau;

237 (h) signature;

238 (i) photograph; and

239 (j) an indication whether the applicant intends to make an anatomical gift under Title
240 26, Chapter 28, Uniform Anatomical Gift Act.

241 (3) The requirements of Section 53-3-234 apply to this section for each person, age 16
242 and older, applying for an identification card. Refusal to consent to the release of information

243 shall result in the denial of the identification card.

244 (4) An applicant may not be denied an identification card for refusing to provide race
245 information required under Subsection (2)(g).

246 Section 4. Section **53-8-108** is enacted to read:

247 **53-8-108. Legal presence enforcement procedures -- Cooperation with the USCIS**
248 **-- Training.**

249 (1) The Highway Patrol shall establish and implement procedures for:

250 (a) recognizing, identifying, and reporting of detained persons who are not legally
251 present in the United States;

252 (b) cooperating with the United States Citizenship and Immigration Services and its
253 successor organizations for the enforcement of legal presence laws; and

254 (c) training and updating troopers to implement the procedures established under
255 Subsections (1)(a) and (b).

256 (2) The Highway Patrol shall update the procedures established under Subsection (1) as
257 needed.

258 Section 5. Section **63-98-101** is enacted to read:

259 **CHAPTER 98. PERSONAL IDENTIFICATION**

260 **63-98-101. Title.**

261 This chapter is known as "Personal Identification."

262 Section 6. Section **63-98-102** is enacted to read:

263 **63-98-102. Matricula card -- Definitions -- Matricula card not acceptable as proof**
264 **of identification.**

265 (1) As used in this section:

266 (a) "Governmental entity" means the state and its political subdivisions as defined in
267 this section.

268 (b) "State" means this state, and includes any office, department, agency, authority,
269 commission, board, institution, hospital, college, university, children's justice center, or other
270 instrumentality of the state.

271 (c) "Political subdivision" means any county, city, town, school district, public transit
272 district, redevelopment agency, special improvement or taxing district, special district, an entity
273 created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation

274 Act, or other governmental subdivision or public corporation.

275 (d) "Matricula card" means a matricula consular identification card issued by a
276 government or a government consulate.

277 (2) A governmental entity may not accept a matricula card as proof of personal
278 identification.

279 **Section 7. Effective date.**

280 This bill takes effect on July 1, 2004.