

DRIVER LICENSE AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl Wimmer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Uniform Driver License Act by amending provisions relating to changing the information provided on a driver license or identification card application.

Highlighted Provisions:

This bill:

► provides that if a person requests to change the sex designation on a driver license or identification card, the Driver License Division shall issue a duplicate driver license or new identification card upon receiving:

- an application and fee for a duplicate driver license or identification card; and
- written verification from a licensed physician that the applicant has undergone and completed a sex reassignment surgery;

► provides that a person shall provide the person's sex on an application for an identification card; and

► makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



- 28 **53-3-205**, as last amended by Laws of Utah 2008, Chapters 304 and 382
- 29 **53-3-216**, as last amended by Laws of Utah 2008, Chapters 304 and 355
- 30 **53-3-804**, as last amended by Laws of Utah 2007, Chapters 60 and 173
- 31 **53-3-805**, as last amended by Laws of Utah 2008, Chapter 382
- 32 **53-3-807**, as last amended by Laws of Utah 2008, Chapter 355
- 33 **77-27-21.5**, as last amended by Laws of Utah 2008, Chapters 133, 342, 355, and 382



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

36 Section 1. Section **53-3-205** is amended to read:

37 **53-3-205. Application for license or endorsement -- Fee required -- Tests --**
 38 **Expiration dates of licenses and endorsements -- Information required -- Previous**
 39 **licenses surrendered -- Driving record transferred from other states -- Reinstatement --**
 40 **Fee required -- License agreement.**

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

- 43 (a) made upon a form furnished by the division; and
- 44 (b) accompanied by a nonrefundable fee set under Section 53-3-105.

45 (2) An application and fee for an original provisional class D license or an original
46 class D license entitle the applicant to:

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

49 (b) a learner permit if needed pending completion of the application and testing
50 process; and

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

52 (3) An application and fee for a motorcycle or taxicab endorsement entitle the
53 applicant to:

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

56 (b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

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

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

59 applicant to:

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

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

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

66 (5) An application and fee for a CDL endorsement entitle the applicant to:

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

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

70 (6) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement
71 test within the number of attempts provided in Subsection (4) or (5), each test may be taken
72 two additional times within the six months for the fee provided in Section 53-3-105.

73 (7) (a) Except as provided under Subsections (7)(f), (g), and (h), an original license
74 expires on the birth date of the applicant in the fifth year following the year the license
75 certificate was issued.

76 (b) Except as provided under Subsections (7)(f), (g), (h), and (i), a renewal or an
77 extension to a license expires on the birth date of the licensee in the fifth year following the
78 expiration date of the license certificate renewed or extended.

79 (c) Except as provided under Subsections (7)(f), (g), and (i), a duplicate license expires
80 on the same date as the last license certificate issued.

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

83 (e) A license and any endorsement to the license held by a person ordered to active
84 duty and stationed outside Utah in any of the armed forces of the United States, which expires
85 during the time period the person is stationed outside of the state, is valid until 90 days after the
86 person has been discharged or has left the service, unless:

87 (i) the license is suspended, disqualified, denied, or has been cancelled or revoked by
88 the division; or

89 (ii) the licensee updates the information or photograph on the license certificate.

90 (f) An original license or a renewal to an original license obtained using proof under
91 Subsection (8)(a)(i)(E)(III) expires on the date of the expiration of the applicant's foreign visa,
92 permit, or other document granting legal presence in the United States or on the date provided
93 under this Subsection (7), whichever is sooner.

94 (g) (i) An original license or a renewal or a duplicate to an original license expires on
95 the next birth date of the applicant or licensee beginning on July 1, 2005 if:

96 (A) the license was obtained without using a Social Security number as required under
97 Subsection (8); and

98 (B) the license certificate or driving privilege card is not clearly distinguished as
99 required under Subsection 53-3-207(6).

100 (ii) A driving privilege card issued or renewed under Section 53-3-207 expires on the
101 birth date of the applicant in the first year following the year that the driving privilege card was
102 issued or renewed.

103 (iii) The expiration dates provided under Subsections (7)(g)(i) and (ii) do not apply to
104 an original license or driving privilege card or to the renewal of an original license or driving
105 privilege card with an expiration date provided under Subsection (7)(f).

106 (h) An original license or a renewal to an original license expires on the birth date of
107 the applicant in the first year following the year that the license was issued if the applicant is
108 required to register as a sex offender under Section 77-27-21.5.

109 (i) An original class M license or a renewal, duplicate, or extension to an original class
110 M license expires on June 30, 2008.

111 (8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative
112 Procedures Act, for requests for agency action, each applicant shall:

113 (i) provide the applicant's:

114 (A) full legal name;

115 (B) birth date;

116 (C) [~~gender~~] sex;

117 (D) between July 1, 2002 and July 1, 2007, race in accordance with the categories
118 established by the United States Census Bureau;

119 (E) (I) Social Security number;

120 (II) temporary identification number (ITIN) issued by the Internal Revenue Service for

121 a person who does not qualify for a Social Security number; or
122 (III) (Aa) proof that the applicant is a citizen of a country other than the United States;
123 (Bb) proof that the applicant does not qualify for a Social Security number; and
124 (Cc) proof of legal presence in the United States, as authorized under federal law; and
125 (F) Utah residence address as documented by a form acceptable under rules made by
126 the division under Section 53-3-104, unless the application is for a temporary CDL issued
127 under Subsection 53-3-407(2)(b);
128 (ii) provide a description of the applicant;
129 (iii) state whether the applicant has previously been licensed to drive a motor vehicle
130 and, if so, when and by what state or country;
131 (iv) state whether the applicant has ever had any license suspended, cancelled, revoked,
132 disqualified, or denied in the last ten years, or whether the applicant has ever had any license
133 application refused, and if so, the date of and reason for the suspension, cancellation,
134 revocation, disqualification, denial, or refusal;
135 (v) state whether the applicant intends to make an anatomical gift under Title 26,
136 Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);
137 (vi) state whether the applicant is required to register as a sex offender under Section
138 77-27-21.5;
139 (vii) state whether the applicant is a military veteran and does or does not authorize
140 sharing the information with the state Department of Veterans' Affairs;
141 (viii) provide all other information the division requires; and
142 (ix) sign the application which signature may include an electronic signature as defined
143 in Section 46-4-102.
144 (b) Each applicant shall have a Utah residence address, unless the application is for a
145 temporary CDL issued under Subsection 53-3-407(2)(b).
146 (c) The division shall maintain on its computerized records an applicant's:
147 (i) (A) Social Security number;
148 (B) temporary identification number (ITIN); or
149 (C) other number assigned by the division if Subsection (8)(a)(i)(E)(III) applies; and
150 (ii) indication whether the applicant is required to register as a sex offender under
151 Section 77-27-21.5.

152 (d) An applicant may not be denied a license for refusing to provide race information
153 required under Subsection (8)(a)(i)(D).

154 (9) The division shall require proof of every applicant's name, birthdate, and birthplace
155 by at least one of the following means:

156 (a) current license certificate;

157 (b) birth certificate;

158 (c) Selective Service registration; or

159 (d) other proof, including church records, family Bible notations, school records, or
160 other evidence considered acceptable by the division.

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

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

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

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

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

175 (14) A person who applies for an original license or renewal of a license agrees that the
176 person's license is subject to any suspension or revocation authorized under this title or Title
177 41, Motor Vehicles.

178 (15) (a) The indication of intent under Subsection (8)(a)(v) shall be authenticated by
179 the licensee in accordance with division rule.

180 (b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and
181 Management Act, the division may, upon request, release to an organ procurement
182 organization, as defined in Section 26-28-102, the names and addresses of all persons who

183 under Subsection (8)(a)(v) indicate that they intend to make an anatomical gift.

184 (ii) An organ procurement organization may use released information only to:

185 (A) obtain additional information for an anatomical gift registry; and

186 (B) inform licensees of anatomical gift options, procedures, and benefits.

187 (16) Notwithstanding Title 63G, Chapter 2, Government Records Access and

188 Management Act, the division may release to the Department of Veterans' Affairs the names

189 and addresses of all persons who indicate their status as a veteran under Subsection (8)(a)(vii).

190 (17) The division and its employees are not liable, as a result of false or inaccurate

191 information provided under Subsection (8)(a)(v) or (vii), for direct or indirect:

192 (a) loss;

193 (b) detriment; or

194 (c) injury.

195 (18) A person who knowingly fails to provide the information required under

196 Subsection (8)(a)(vi) is guilty of a class A misdemeanor.

197 Section 2. Section **53-3-216** is amended to read:

198 **53-3-216. Change of address -- Duty of licensee to notify division within ten days**

199 **-- Change of name -- Proof necessary -- Method of giving notice by division.**

200 (1) If a person, after applying for or receiving a license, moves from the address named

201 in the application or in the license certificate issued to him, the person shall within ten days of

202 moving, notify the division in a manner specified by the division of his new address and the

203 number of any license certificate held by him.

204 (2) If a person requests to change the surname on the applicant's license, the division

205 shall issue a substitute license with the new name upon receiving an application and fee for a

206 duplicate license and any of the following proofs of the applicant's full legal name:

207 (a) an original or certified copy of the applicant's marriage certificate;

208 (b) a certified copy of a court order under Title 42, Chapter 1, Change of Name,

209 showing the name change;

210 (c) an original or certified copy of a birth certificate issued by a government agency;

211 (d) a certified copy of a divorce decree or annulment granted the applicant that

212 specifies the name change requested; or

213 (e) a certified copy of a divorce decree that does not specify the name change requested

214 together with:

215 (i) an original or certified copy of the applicant's birth certificate;

216 (ii) the applicant's marriage license;

217 (iii) a driver license record showing use of a maiden name; or

218 (iv) other documentation the division finds acceptable.

219 (3) If a person requests to change the sex designation on the applicant's license, the
220 division shall issue a duplicate license with the new sex designation upon receiving:

221 (a) an application and fee for a duplicate license; and

222 (b) written verification from a licensed physician that the applicant has undergone and
223 completed a sex reassignment surgery.

224 [~~3~~] (4) (a) Except as provided in Subsection [~~3~~] (4)(c), if a person has applied for
225 and received a license certificate and is currently required to register as a sex offender under
226 Section 77-27-21.5:

227 (i) the person's original license or renewal to an original license expires on the next
228 birth date of the licensee beginning on July 1, 2006;

229 (ii) the person shall surrender the person's license to the division on or before the
230 licensee's next birth date beginning on July 1, 2006; and

231 (iii) the person may apply for a license certificate with an expiration date identified in
232 Subsection 53-3-205(7)(h) by:

233 (A) furnishing proper documentation to the division as provided in Section 53-3-205;

234 and

235 (B) paying the fee for a license required under Section 53-3-105.

236 (b) Except as provided in Subsection [~~3~~] (4)(c), if a person has applied for and
237 received a license certificate and is subsequently convicted of any offense listed in Subsection
238 77-27-21.5(1)(n), the person shall surrender the license certificate to the division on the
239 person's next birth date following the conviction and may apply for a license certificate with an
240 expiration date identified in Subsection 53-3-205(7)(h) by:

241 (i) furnishing proper documentation to the division as provided in Section 53-3-205;

242 and

243 (ii) paying the fee for a license required under Section 53-3-105.

244 (c) A person who is unable to comply with the provisions of Subsection [~~3~~] (4)(a) or

245 [~~3~~] (b) because the person is in the custody of the Department of Corrections or the Division
246 of Juvenile Justice Services, confined in a correctional facility not operated by or under
247 contract with the Department of Corrections, or committed to a state mental facility, shall
248 comply with the provisions of Subsection [~~3~~] (4)(a) or (b) within ten days of being released
249 from confinement.

250 [~~4~~] (5) (a) If the division is authorized or required to give any notice under this
251 chapter or other law regulating the operation of vehicles, the notice shall, unless otherwise
252 prescribed, be given by:

253 (i) personal delivery to the person to be notified; or

254 (ii) deposit in the United States mail with postage prepaid, addressed to the person at
255 his address as shown by the records of the division.

256 (b) The giving of notice by mail is complete upon the expiration of four days after the
257 deposit of the notice.

258 (c) Proof of the giving of notice in either manner may be made by the certificate of any
259 officer or employee of the division or affidavit of any person older than 18 years of age,
260 naming the person to whom the notice was given and specifying the time, place, and manner of
261 giving the notice.

262 [~~5~~] (6) The division may use state mailing or United States Postal Service
263 information to:

264 (a) verify an address on an application or on records of the division; and

265 (b) correct mailing addresses in the division's records.

266 [~~6~~] (7) (a) A violation of the provisions of Subsection (1) is an infraction.

267 (b) A person who knowingly fails to surrender a license certificate under Subsection
268 [~~3~~] (4) is guilty of a class A misdemeanor.

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

270 **53-3-804. Application for identification card -- Required information -- Release**
271 **of anatomical gift information.**

272 (1) To apply for an identification card, the applicant shall:

273 (a) be a Utah resident;

274 (b) have a Utah residence address; and

275 (c) appear in person at any license examining station.

276 (2) The applicant shall provide the following information to the division:
 277 (a) true and full legal name and Utah residence address;
 278 (b) date of birth as set forth in a certified copy of the applicant's birth certificate, or
 279 other satisfactory evidence of birth, which shall be attached to the application;
 280 (c) sex;
 281 [~~e~~] (d) Social Security number;
 282 [~~d~~] (e) place of birth;
 283 [~~e~~] (f) height and weight;
 284 [~~f~~] (g) color of eyes and hair;
 285 [~~g~~] (h) between July 1, 2002 and July 1, 2007, race in accordance with the categories
 286 established by the United States Census Bureau;
 287 [~~h~~] (i) signature;
 288 [~~i~~] (j) photograph;
 289 [~~j~~] (k) an indication whether the applicant intends to make an anatomical gift under
 290 Title 26, Chapter 28, Revised Uniform Anatomical Gift Act;
 291 [~~k~~] (l) an indication whether the applicant is required to register as a sex offender
 292 under Section 77-27-21.5; and
 293 [~~l~~] (m) an indication whether the applicant is a military veteran and does or does not
 294 authorize sharing the information with the state Department of Veterans' Affairs.
 295 (3) (a) The requirements of Section 53-3-234 apply to this section for each person, age
 296 16 and older, applying for an identification card.
 297 (b) Refusal to consent to the release of information shall result in the denial of the
 298 identification card.
 299 (4) An applicant may not be denied an identification card for refusing to provide race
 300 information required under Subsection (2)[~~g~~](h).
 301 (5) A person who knowingly fails to provide the information required under Subsection
 302 (2)[~~k~~](l) is guilty of a class A misdemeanor.
 303 Section 4. Section **53-3-805** is amended to read:
 304 **53-3-805. Identification card -- Contents -- Specifications.**
 305 (1) (a) The division shall issue an identification card that bears:
 306 (i) the distinguishing number assigned to the person by the division;

307 (ii) the name, birth date, and Utah residence address of the person;
308 (iii) a brief description of the person for the purpose of identification;
309 (iv) a photograph of the person;
310 (v) a photograph or other facsimile of the person's signature; and
311 (vi) an indication whether the person intends to make an anatomical gift under Title 26,
312 Chapter 28, Revised Uniform Anatomical Gift Act.

313 (b) An identification card issued by the division may not bear the person's Social
314 Security number or place of birth.

315 (2) (a) The card shall be of an impervious material, resistant to wear, damage, and
316 alteration.

317 (b) Except as provided under Section 53-3-806, the size, form, and color of the card is
318 prescribed by the commissioner.

319 (3) At the applicant's request, the card may include a statement that the applicant has a
320 special medical problem or allergies to certain drugs, for the purpose of medical treatment.

321 (4) (a) The indication of intent under Subsection 53-3-804(2)(~~f~~)(k) shall be
322 authenticated by the applicant in accordance with division rule.

323 (b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and
324 Management Act, the division may, upon request, release to an organ procurement
325 organization, as defined in Section 26-28-102, the names and addresses of all persons who
326 under Subsection 53-3-804(2)(~~f~~)(k) indicate that they intend to make an anatomical gift.

327 (ii) An organ procurement organization may use released information only to:

328 (A) obtain additional information for an anatomical gift registry; and

329 (B) inform applicants of anatomical gift options, procedures, and benefits.

330 (5) Notwithstanding Title 63G, Chapter 2, Government Records Access and
331 Management Act, the division may release to the Department of Veterans' Affairs the names
332 and addresses of all persons who indicate their status as a veteran under Subsection
333 53-3-804(2)(~~f~~)(m).

334 (6) The division and its employees are not liable, as a result of false or inaccurate
335 information provided under Subsection 53-3-804(2)(~~f~~)(k) or (~~f~~)(m), for direct or indirect:

336 (a) loss;

337 (b) detriment; or

338 (c) injury.

339 Section 5. Section 53-3-807 is amended to read:

340 **53-3-807. Expiration -- Address and name change -- Extension for disabled.**

341 (1) An identification card issued on or after July 1, 2006 expires on the birth date of the
342 applicant in the fifth year following the issuance of the identification card.

343 (2) If a person has applied for and received an identification card and subsequently
344 moves from the address shown on the application or on the card, the person shall within ten
345 days notify the division in a manner specified by the division of the person's new address.

346 (3) If a person has applied for and received an identification card and subsequently
347 changes the person's name under Title 42, Chapter 1, Change of Name, the person:

348 (a) shall surrender the card to the division; and

349 (b) may apply for a new card in the person's new name by:

350 (i) furnishing proper documentation to the division as provided in Section 53-3-804;

351 and

352 (ii) paying the fee required under Section 53-3-105.

353 (4) If a person requests to change the sex designation on the applicant's identification,
354 the division shall issue a new card with the new sex designation upon receiving:

355 (a) an application and fee for an identification card; and

356 (b) written verification from a licensed physician that the applicant has undergone and
357 completed a sex reassignment surgery.

358 [~~4~~] (5) (a) Except as provided in Subsection [~~4~~] (5)(c), if a person has applied for
359 and received an identification card and is currently required to register as a sex offender under
360 Section 77-27-21.5:

361 (i) the person's identification card expires annually on the next birth date of the
362 cardholder, on and after July 1, 2006;

363 (ii) the person shall surrender the person's identification card to the division on or
364 before the cardholder's next birth date beginning on July 1, 2006; and

365 (iii) the person may apply for an identification card with an expiration date identified in
366 Subsection [~~8~~] (9)(b) by:

367 (A) furnishing proper documentation to the division as provided in Section 53-3-804;

368 and

369 (B) paying the fee for an identification card required under Section 53-3-105.

370 (b) Except as provided in Subsection [~~(4)~~] (5)(c), if a person has applied for and
371 received an identification card and is subsequently convicted of any offense listed in
372 Subsection 77-27-21.5(1)(n), the person shall surrender the card to the division on the person's
373 next birth date following the conviction and may apply for a new card with an expiration date
374 identified in Subsection [~~(8)~~] (9)(b) by:

375 (i) furnishing proper documentation to the division as provided in Section 53-3-804;
376 and

377 (ii) paying the fee required under Section 53-3-105.

378 (c) A person who is unable to comply with the provisions of Subsection [~~(4)~~] (5)(a) or
379 [~~(4)~~](b) because the person is in the custody of the Department of Corrections or Division of
380 Juvenile Justice Services, confined in a correctional facility not operated by or under contract
381 with the Department of Corrections, or committed to a state mental facility, shall comply with
382 the provisions of Subsection [~~(4)~~] (5)(a) or (b) within ten days of being released from
383 confinement.

384 [~~(5)~~] (6) A person older than 21 years of age with a disability, as defined under the
385 Americans with Disabilities Act of 1990, Pub. L. 101-336, may extend the expiration date on
386 an identification card for five years if the person with a disability or an agent of the person with
387 a disability:

388 (a) requests that the division send the application form to obtain the extension or
389 requests an application form in person at the division's offices;

390 (b) completes the application;

391 (c) certifies that the extension is for a person 21 years of age or older with a disability;

392 and

393 (d) returns the application to the division together with the identification card fee
394 required under Section 53-3-105.

395 [~~(6)~~] (7) (a) (i) An identification card may only be extended once, except as prohibited
396 under Subsection [~~(6)~~] (7)(b).

397 (ii) After an extension an application for an identification card must be applied for in
398 person at the division's offices.

399 (b) An identification card issued to a person required to register as a sex offender under

400 Section 77-27-21.5 may not be extended.

401 ~~[(7)]~~ (8) An identification card issued prior to July 1, 2006 to a person 65 years of age
402 or older does not expire, but continues in effect until the death of that person.

403 ~~[(8)]~~ (9) Notwithstanding the provisions of this section:

404 (a) an identification card that was obtained without using a Social Security number as
405 required under Subsection 53-3-804(2) expires on July 1, 2005; and

406 (b) an identification card expires on the birth date of the applicant in the first year
407 following the year that the identification card was issued if the applicant is required to register
408 as a sex offender under Section 77-27-21.5.

409 ~~[(9)]~~ (10) A person who knowingly fails to surrender an identification card under
410 Subsection ~~[(4)]~~ (5) is guilty of a class A misdemeanor.

411 Section 6. Section 77-27-21.5 is amended to read:

412 **77-27-21.5. Sex and kidnap offenders -- Registration -- Information system --**

413 **Law enforcement and courts to report -- Registration -- Penalty -- Effect of expungement.**

414 (1) As used in this section:

415 (a) "Business day" means a day on which state offices are open for regular business.

416 (b) "Department" means the Department of Corrections.

417 (c) "Division" means the Division of Juvenile Justice Services.

418 (d) "Employed" or "carries on a vocation" includes employment that is full time or part
419 time, whether financially compensated, volunteered, or for the purpose of government or
420 educational benefit.

421 (e) "Indian Country" means:

422 (i) all land within the limits of any Indian reservation under the jurisdiction of the
423 United States government, regardless of the issuance of any patent, and includes rights-of-way
424 running through the reservation;

425 (ii) all dependent Indian communities within the borders of the United States whether
426 within the original or subsequently acquired territory, and whether or not within the limits of a
427 state; and

428 (iii) all Indian allotments, including the Indian allotments to which the Indian titles to
429 have not been extinguished, including rights-of-way running through the allotments.

430 (f) "Jurisdiction" means any state, Indian County, or United States Territory.

- 431 (g) "Kidnap offender" means any person other than a natural parent of the victim who:
432 (i) has been convicted in this state of a violation of:
433 (A) Section 76-5-301, kidnapping;
434 (B) Section 76-5-301.1, child kidnapping;
435 (C) Section 76-5-302, aggravated kidnapping;
436 (D) Section 76-5-304, unlawful detention; or
437 (E) attempting, soliciting, or conspiring to commit any felony offense listed in
438 Subsections (1)(g)(i)(A) through [~~(G)~~] (D);
439 (ii) has been convicted of any crime, or an attempt, solicitation, or conspiracy to
440 commit a crime in another jurisdiction that is substantially equivalent to the offenses listed in
441 Subsection (1)(g)(i) and who is:
442 (A) a Utah resident; or
443 (B) not a Utah resident, but who, in any 12 month period, is in this state for a total of
444 ten or more days, regardless of whether or not the offender intends to permanently reside in this
445 state;
446 (iii) is required to register as an offender in any other jurisdiction, and who, in any 12
447 month period, is in this state for a total of ten or more days, regardless of whether or not the
448 offender intends to permanently reside in this state;
449 (iv) is a nonresident regularly employed or working in this state, or who is a student in
450 this state, and was convicted of one or more offenses listed in Subsection (1)(g) or (1)(n), or
451 any substantially equivalent offense in another jurisdiction, or as a result of the conviction, is
452 required to register in the person's state of residence;
453 (v) is found not guilty by reason of insanity in this state or in any other jurisdiction of
454 one or more offenses listed in Subsection (1)(g); or
455 (vi) is adjudicated delinquent based on one or more offenses listed in Subsection
456 (1)(g)(i) and who has been committed to the division for secure confinement and remains in the
457 division's custody 30 days prior to the person's 21st birthday.
458 (h) "Natural parent" means a minor's biological or adoptive parent, and includes the
459 minor's noncustodial parent.
460 (i) "Offender" means a kidnap offender as defined in Subsection (1)(g) or a sex
461 offender as defined in Subsection (1)(n).

462 (j) "Online identifier" means any electronic mail, chat, instant messenger, social
463 networking, or similar name used for Internet communication. It does not include date of birth,
464 Social Security number, or PIN number.

465 (k) "Primary residence" means the location where the offender regularly resides, even
466 if the offender intends to move to another location or return to another location at any future
467 date.

468 (l) "Register" means to comply with the requirements of this section and administrative
469 rules of the department made under this section.

470 (m) "Secondary residence" means any real property that the offender owns or has a
471 financial interest in, and any location where, in any 12 month period, the offender stays
472 overnight a total of ten or more nights when not staying at the offender's primary residence.

473 (n) "Sex offender" means any person:

474 (i) convicted in this state of:

475 (A) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

476 (B) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;

477 (C) a felony violation of Section 76-5-401, unlawful sexual activity with a minor;

478 (D) Section 76-5-401.1, sexual abuse of a minor;

479 (E) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

480 (F) Section 76-5-402, rape;

481 (G) Section 76-5-402.1, rape of a child;

482 (H) Section 76-5-402.2, object rape;

483 (I) Section 76-5-402.3, object rape of a child;

484 (J) a felony violation of Section 76-5-403, forcible sodomy;

485 (K) Section 76-5-403.1, sodomy on a child;

486 (L) Section 76-5-404, forcible sexual abuse;

487 (M) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;

488 (N) Section 76-5-405, aggravated sexual assault;

489 (O) Section 76-5a-3, sexual exploitation of a minor;

490 (P) Section 76-7-102, incest;

491 (Q) Section 76-9-702.5, lewdness involving a child;

492 (R) Section 76-10-1306, aggravated exploitation of prostitution; or

493 (S) attempting, soliciting, or conspiring to commit any felony offense listed in
494 Subsection (1)(n)(i);

495 (ii) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to
496 commit a crime in another jurisdiction that is substantially equivalent to the offenses listed in
497 Subsection (1)(n)(i) and who is:

498 (A) a Utah resident; or
499 (B) not a Utah resident, but who, in any 12 month period, is in this state for a total of
500 ten or more days, regardless of whether the offender intends to permanently reside in this state;

501 (iii) who is required to register as an offender in any other jurisdiction, and who, in any
502 12 month period, is in the state for a total of ten or more days, regardless of whether or not the
503 offender intends to permanently reside in this state;

504 (iv) who is a nonresident regularly employed or working in this state or who is a
505 student in this state and was convicted of one or more offenses listed in Subsection (1)(n)(i), or
506 any substantially equivalent offense in any jurisdiction, or as a result of the conviction, is
507 required to register in the person's jurisdiction of residence;

508 (v) who is found not guilty by reason of insanity in this state, or in any other
509 jurisdiction of one or more offenses listed in Subsection (1)(n)(i); or

510 (vi) who is adjudicated delinquent based on one or more offenses listed in Subsection
511 (1)(n)(i) and who has been committed to the division for secure confinement and remains in the
512 division's custody 30 days prior to the person's 21st birthday.

513 (o) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in
514 any jurisdiction.

515 (2) The department, to assist in investigating sex-related crimes and in apprehending
516 offenders, shall:

517 (a) develop and operate a system to collect, analyze, maintain, and disseminate
518 information on offenders and sex and kidnap offenses;

519 (b) make information listed in Subsection (25) available to the public; and
520 (c) require that a sex offender provide to the department any password required for use
521 with an online identifier. Passwords provided to the department may not be disclosed to the
522 public.

523 (3) Any law enforcement agency shall, in the manner prescribed by the department,

524 inform the department of:

525 (a) the receipt of a report or complaint of an offense listed in Subsection (1)(g) or (n),
526 within three business days; and

527 (b) the arrest of a person suspected of any of the offenses listed in Subsection (1)(g) or
528 (n), within five business days.

529 (4) Upon convicting a person of any of the offenses listed in Subsection (1)(g) or (n),
530 the convicting court shall within three business days forward a copy of the judgment and
531 sentence to the department.

532 (5) An offender in the custody of the department shall be registered by agents of the
533 department upon:

534 (a) placement on probation;

535 (b) commitment to a secure correctional facility operated by or under contract to the
536 department;

537 (c) release from confinement to parole status, termination or expiration of sentence, or
538 escape;

539 (d) entrance to and release from any community-based residential program operated by
540 or under contract to the department; or

541 (e) termination of probation or parole.

542 (6) An offender who is not in the custody of the department and who is confined in a
543 correctional facility not operated by or under contract to the department shall be registered with
544 the department by the sheriff of the county in which the offender is confined, upon:

545 (a) commitment to the correctional facility; and

546 (b) release from confinement.

547 (7) An offender in the custody of the division shall be registered with the department by
548 the division prior to release from custody.

549 (8) An offender committed to a state mental hospital shall be registered with the
550 department by the hospital upon admission and upon discharge.

551 (9) An offender convicted by any other jurisdiction is required to register under
552 Subsection (1)(g) or (n) and Subsection (10) and shall register with the department within ten
553 days of entering the state, regardless of the offender's length of stay.

554 (10) (a) Except as provided in Subsections (10)(b), (c), and (d), an offender shall, for

555 the duration of the sentence and for ten years after termination of sentence or custody of the
556 division, register every year during the month of the offender's birth, during the month that is
557 the sixth month after the offender's birth month, and also within three business days of every
558 change of the offender's primary residence, any secondary residences, place of employment,
559 vehicle information, or educational information required to be submitted under Subsection
560 (12).

561 (b) Except as provided Subsections (10)(c) and (d), an offender who is convicted in
562 another jurisdiction of an offense listed in Subsection (1)(g)(i) or (n)(i), a substantially similar
563 offense, or any other offense that requires registration in the jurisdiction of conviction, shall:

564 (i) register for the time period, and in the frequency, required by the jurisdiction where
565 the offender was convicted if that jurisdiction's registration period or registration frequency
566 requirement for the offense that the offender was convicted of is greater than the ten years from
567 completion of the sentence registration period that is required under Subsection (10)(a), or is
568 more frequent than every six months; or

569 (ii) register in accordance with the requirements of Subsection (10)(a), if the
570 jurisdiction's registration period or frequency requirement for the offense that the offender was
571 convicted of is less than the registration period required under Subsection (10)(a), or is less
572 frequent than every six months.

573 (c) (i) (A) An offender convicted as an adult of any of the offenses listed in Subsection
574 (10)(c)(ii) shall, for the offender's lifetime, register every year during the month of the
575 offender's birth, during the month that is the sixth month after the offender's birth month, and
576 also within three business days of every change of the offender's primary residence, any
577 secondary residences, place of employment, vehicle information, or educational information
578 required to be submitted under Subsection (12).

579 (B) This registration requirement is not subject to exemptions and may not be
580 terminated or altered during the offender's lifetime.

581 (ii) Offenses referred to in Subsection (10)(c)(i) are:

582 (A) any offense listed in Subsection (1)(g) or (n) if, at the time of the conviction, the
583 offender has previously been convicted of an offense listed in Subsection (1)(g) or (n) or has
584 previously been required to register as a sex offender for an offense committed as a juvenile;

585 (B) a conviction for any of the following offenses, including attempting, soliciting, or

586 conspiring to commit any felony of:

587 (I) Section 76-5-301.1, child kidnapping, except if the offender is a natural parent of
588 the victim;

589 (II) Section 76-5-402, rape;

590 (III) Section 76-5-402.1, rape of a child;

591 (IV) Section 76-5-402.2, object rape;

592 (V) Section 76-5-402.3, object rape of a child;

593 (VI) Section 76-5-403.1, sodomy on a child;

594 (VII) Subsection 76-5-404.1(4), aggravated sexual abuse of a child; or

595 (VIII) Section 76-5-405, aggravated sexual assault;

596 (C) Section 76-4-401, a felony violation of enticing a minor over the Internet;

597 (D) Section 76-5-302, aggravated kidnapping, except if the offender is a natural parent
598 of the victim;

599 (E) Section 76-5-403, forcible sodomy;

600 (F) Section 76-5-404.1, sexual abuse of a child; or

601 (G) Section 76-5a-3, sexual exploitation of a minor.

602 (d) Notwithstanding Subsections (10)(a), (b), and (c), an offender who is confined in a
603 secure facility or in a state mental hospital is not required to register during the period of
604 confinement.

605 (e) An offender who is required to register under this Subsection (10) shall surrender
606 the offender's license, certificate, or identification card as required under Subsection
607 53-3-216~~(3)~~(4) or 53-3-807~~(4)~~(5) and may apply for a license certificate or identification
608 card as provided under Section 53-3-205 or 53-3-804.

609 (11) An agency in the state that registers an offender on probation, an offender who has
610 been released from confinement to parole status or termination, or an offender whose sentence
611 has expired shall inform the offender of the duty to comply with:

612 (a) the continuing registration requirements of this section during the period of
613 registration required in Subsection (10), including:

614 (i) notification to the state agencies in the states where the registrant presently resides
615 and plans to reside when moving across state lines;

616 (ii) verification of address at least every 60 days pursuant to a parole agreement for

617 lifetime parolees; and

618 (iii) notification to the out-of-state agency where the offender is living, whether or not
619 the offender is a resident of that state; and

620 (b) the driver license certificate or identification card surrender requirement under
621 Subsection 53-3-216~~(3)~~(4) or 53-3-807~~(4)~~(5) and application provisions under Section
622 53-3-205 or 53-3-804.

623 (12) An offender shall provide the department or the registering entity with the
624 following information:

625 (a) all names and aliases by which the offender is or has been known;

626 (b) the addresses of the offender's primary and secondary residences;

627 (c) a physical description, including the offender's date of birth, height, weight, eye and
628 hair color;

629 (d) the make, model, color, year, plate number, and vehicle identification number of
630 any vehicle or vehicles the offender owns or regularly drives;

631 (e) a current photograph of the offender;

632 (f) a set of fingerprints, if one has not already been provided;

633 (g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not
634 already been provided;

635 (h) telephone numbers and any other designations used by the offender for routing or
636 self-identification in telephonic communications from fixed locations or cellular telephones;

637 (i) Internet identifiers and the addresses the offender uses for routing or
638 self-identification in Internet communications or postings;

639 (j) the name and Internet address of all websites on which the sex offender is registered
640 using an online identifier, including all online identifiers and passwords used to access those
641 websites;

642 (k) a copy of the offender's passport, if a passport has been issued to the offender;

643 (l) if the offender is an alien, all documents establishing the offender's immigration
644 status;

645 (m) all professional licenses that authorize the offender to engage in an occupation or
646 carry out a trade or business, including any identifiers, such as numbers;

647 (n) each educational institution in Utah at which the offender is employed, carries on a

648 vocation, or is a student, and any change of enrollment or employment status of the offender at
649 any educational institution;

650 (o) the name and the address of any place where the offender is employed or will be
651 employed;

652 (p) the name and the address of any place where the offender works as a volunteer or
653 will work as a volunteer; and

654 (q) the offender's Social Security number.

655 (13) The department shall:

656 (a) provide the following additional information when available:

657 (i) the crimes the offender has been convicted of or adjudicated delinquent for;

658 (ii) a description of the offender's primary and secondary targets; and

659 (iii) any other relevant identifying information as determined by the department;

660 (b) maintain the Sex Offender Notification and Registration website; and

661 (c) ensure that the registration information collected regarding an offender's enrollment
662 or employment at an educational institution is:

663 (i) (A) promptly made available to any law enforcement agency that has jurisdiction
664 where the institution is located if the educational institution is an institution of higher
665 education; or

666 (B) promptly made available to the district superintendent of the school district where
667 the offender is enrolled if the educational institution is an institution of primary education; and

668 (ii) entered into the appropriate state records or data system.

669 (14) (a) An offender who knowingly fails to register under this section or provides false
670 or incomplete information is guilty of:

671 (i) a third degree felony and shall be sentenced to serve a term of incarceration for not
672 less than 90 days and also at least one year of probation if:

673 (A) the offender is required to register for a felony conviction or adjudicated delinquent
674 for what would be a felony if the juvenile were an adult of an offense listed in Subsection

675 (1)(g)(i) or (n)(i); or

676 (B) the offender is required to register for the offender's lifetime under Subsection
677 (10)(c); or

678 (ii) a class A misdemeanor and shall be sentenced to serve a term of incarceration for

679 not fewer than 90 days and also at least one year of probation if the offender is required to
680 register for a misdemeanor conviction or is adjudicated delinquent for what would be a
681 misdemeanor if the juvenile were an adult of an offense listed in Subsection (1)(g)(i) or (n)(i).

682 (b) Neither the court nor the Board of Pardons and Parole may release a person who
683 violates this section from serving the term required under Subsection (14)(a). This Subsection
684 (14)(b) supersedes any other provision of the law contrary to this section.

685 (c) The offender shall register for an additional year for every year in which the
686 offender does not comply with the registration requirements of this section.

687 (15) Notwithstanding Title 63G, Chapter 2, Government Records Access and
688 Management Act, information in Subsection (13) collected and released under Subsection (25)
689 is public information.

690 (16) (a) If an offender is to be temporarily sent outside a secure facility in which the
691 offender is confined on any assignment, including, without limitation, firefighting or disaster
692 control, the official who has custody of the offender shall, within a reasonable time prior to
693 removal from the secure facility, notify the local law enforcement agencies where the
694 assignment is to be filled.

695 (b) This Subsection (16) does not apply to any person temporarily released under guard
696 from the institution in which the person is confined.

697 (17) Notwithstanding Sections 77-18-9 through 77-18-14 regarding expungement, a
698 person convicted of any offense listed in Subsection (1)(g) or (n) is not relieved from the
699 responsibility to register as required under this section.

700 (18) Notwithstanding Section 42-1-1, an offender:

701 (a) may not change the offender's name:

702 (i) while under the jurisdiction of the department; and

703 (ii) until the registration requirements of this statute have expired; and

704 (b) may not change the offender's name at any time, if registration is for life under
705 Subsection (10)(c).

706 (19) The department may make administrative rules necessary to implement this
707 section, including:

708 (a) the method for dissemination of the information; and

709 (b) instructions to the public regarding the use of the information.

710 (20) Any information regarding the identity or location of a victim shall be redacted by
711 the department from information provided under Subsections (12) and (13).

712 (21) This section does not create or impose any duty on any person to request or obtain
713 information regarding any sex offender from the department.

714 (22) The department shall maintain a Sex Offender Notification and Registration
715 website on the Internet, which shall contain a disclaimer informing the public:

716 (a) the information contained on the site is obtained from offenders and the department
717 does not guarantee its accuracy or completeness;

718 (b) members of the public are not allowed to use the information to harass or threaten
719 offenders or members of their families; and

720 (c) harassment, stalking, or threats against offenders or their families are prohibited and
721 doing so may violate Utah criminal laws.

722 (23) The Sex Offender Notification and Registration website shall be indexed by both
723 the surname of the offender and by postal codes.

724 (24) The department shall construct the Sex Offender Notification and Registration
725 website so that users, before accessing registry information, must indicate that they have read
726 the disclaimer, understand it, and agree to comply with its terms.

727 (25) The Sex Offender Notification and Registration website shall include the
728 following registry information:

729 (a) all names and aliases by which the offender is or has been known;

730 (b) the addresses of the offender's primary, secondary, and temporary residences;

731 (c) a physical description, including the offender's date of birth, height, weight, and eye
732 and hair color;

733 (d) the make, model, color, year, and plate number of any vehicle or vehicles the
734 offender owns or regularly drives;

735 (e) a current photograph of the offender;

736 (f) a list of all professional licenses that authorize the offender to engage in an
737 occupation or carry out a trade or business;

738 (g) each educational institution in Utah at which the offender is employed, carries on a
739 vocation, or is a student;

740 (h) a list of places where the offender works as a volunteer;

741 (i) the crimes listed in Subsections (1)(g) and (1)(n) that the offender has been
742 convicted of or for which the offender has been adjudicated delinquent in juvenile court; and

743 (j) a description of the offender's primary and secondary targets.

744 (26) The department, its personnel, and any individual or entity acting at the request or
745 upon the direction of the department are immune from civil liability for damages for good faith
746 compliance with this section and will be presumed to have acted in good faith by reporting
747 information.

748 (27) The department shall redact information that, if disclosed, could reasonably
749 identify a victim.

750 (28) (a) Each offender required to register under Subsection (10) shall, in the month of
751 the offender's birth, pay to the department an annual fee of \$100 each year the offender is
752 subject to the registration requirements of this section.

753 (b) Notwithstanding Subsection (28)(a), an offender who is confined in a secure facility
754 or in a state mental hospital is not required to pay the annual fee.

755 (c) The department shall deposit fees under this Subsection (28) in the General Fund as
756 a dedicated credit, to be used by the department for maintaining the offender registry under this
757 section and monitoring offender registration compliance, including the costs of:

758 (i) data entry;

759 (ii) processing registration packets;

760 (iii) updating registry information;

761 (iv) ensuring offender compliance with registration requirements under this section;

762 and

763 (v) apprehending offenders who are in violation of the offender registration
764 requirements under this section.

765 (29) Notwithstanding Subsections (2)(c) and (12)(i) and (j), a sex offender is not
766 required to provide the department with:

767 (a) the offender's online identifier and password used exclusively for the offender's
768 employment on equipment provided by an employer and used to access the employer's private
769 network; or

770 (b) online identifiers for the offender's financial accounts, including any bank,
771 retirement, or investment accounts.

Legislative Review Note
as of 12-4-08 4:36 PM

Office of Legislative Research and General Counsel

H.B. 225 - Driver License Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
