

1 **CRIMINAL BACKGROUND CHECKS ON MOTOR**
2 **VEHICLE DEALERS AND SALESPERSONS**

3 2010 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Rebecca D. Lockhart**

6 Senate Sponsor: Mark B. Madsen

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Motor Vehicle Business Regulation Act and the Public Safety
11 Code by amending provisions relating to criminal background checks on motor vehicle
12 dealers and salespersons.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ requires every applicant for a motor vehicle salesperson license to submit
16 fingerprints with a completed application to the Motor Vehicle Enforcement
17 Division;
- 18 ▶ requires certain persons that renewed a motor vehicle salesperson license to submit
19 fingerprints to the Motor Vehicle Enforcement Division;
- 20 ▶ provides that the Motor Vehicle Enforcement Division shall submit fingerprints for
21 each applicant to the Bureau of Criminal Identification;
- 22 ▶ requires the Bureau of Criminal Identification to:
 - 23 • compare motor vehicle salesperson applicant fingerprints with certain criminal
24 databases and inform the Motor Vehicle Enforcement Division of its findings;
 - 25 and
 - 26 • maintain a separate file of motor vehicle salesperson fingerprints and notify the
27 Motor Vehicle Enforcement Division when a new entry is made concerning a
28 person in the file regarding an arrest for certain offenses;
 - 29 ▶ requires the Motor Vehicle Enforcement Division to:

- 30 • impose the fees that the Bureau of Criminal Identification is authorized to
- 31 collect for certain services; and
- 32 • remit the fees collected to the Bureau of Criminal Identification;
- 33 ▶ requires the Motor Vehicle Enforcement Division to suspend the salesperson
- 34 license of a salesperson who fails to submit the fingerprints as required;
- 35 ▶ provides that the Motor Vehicle Enforcement Division shall use information
- 36 received from the Bureau of Criminal Identification to determine whether a license
- 37 should be denied, suspended, or revoked; and
- 38 ▶ makes technical changes.

39 **Monies Appropriated in this Bill:**

40 None

41 **Other Special Clauses:**

42 This bill takes effect on July 1, 2010.

43 **Utah Code Sections Affected:**

44 AMENDS:

45 **41-3-209**, as last amended by Laws of Utah 2008, Chapter 382

46 **53-10-202**, as renumbered and amended by Laws of Utah 1998, Chapter 263

47 ENACTS:

48 **41-3-205.5**, Utah Code Annotated 1953



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

51 Section 1. Section **41-3-205.5** is enacted to read:

52 **41-3-205.5. Licenses -- Criminal background check required on salesperson's**
53 **licenses -- Payment of cost.**

54 (1) (a) Every applicant for a salesperson's license shall submit fingerprints with a
55 completed application to the division.

56 (b) A person required to renew a salesperson license on or before June 30, 2010 shall
57 submit fingerprints to the division on or before November 30, 2010.

58 (2) The division shall submit fingerprints for each applicant described in Subsection
59 (1) to the Bureau of Criminal Identification established in Section 53-10-201.

60 (3) The Bureau of Criminal Identification shall:

61 (a) check the information submitted by the division for an applicant under Subsection
62 (2) against the applicable state and regional criminal records databases; and

63 (b) release to the division all information obtained under Subsection (3)(a) relating to
64 the applicant.

65 (4) (a) The Bureau of Criminal Identification shall maintain a separate file of
66 fingerprints submitted under Subsection (2) and notify the division when a new entry is made
67 in the applicable state and regional database against a person whose fingerprints are held in
68 the file regarding any matter involving an arrest under state law involving:

69 (i) motor vehicles;

70 (ii) controlled substances;

71 (iii) fraud; or

72 (iv) a registerable sex offense under Section 77-27-21.5.

73 (b) Upon request by the division, the Bureau of Criminal Identification shall inform
74 the division whether a person whose arrest was reported to the division under Subsection
75 (4)(a) was subsequently convicted of the charge for which the person was arrested.

76 (5) In addition to any fees imposed under this chapter, the division shall:

77 (a) impose on individuals submitting fingerprints in accordance with this section the
78 fees that the Bureau of Criminal Identification is authorized to collect for the services the
79 Bureau of Criminal Identification provides under Subsections (3) and (4); and

80 (b) remit the fees collected under Subsection (5)(a) to the Bureau of Criminal
81 Identification.

82 (6) The division shall use information received from the Bureau of Criminal
83 Identification under this section to determine whether a license should be denied, suspended,
84 or revoked under Section 41-3-209.

85 Section 2. Section **41-3-209** is amended to read:

86 **41-3-209. Administrator's findings -- Suspension and revocation of license.**

87 (1) If the administrator finds that an applicant is not qualified to receive a license, a
88 license may not be granted.

89 (2) (a) On December 1, 2010, the administrator shall suspend the license of a
90 salesperson who fails to submit to the division fingerprints as required under Subsection
91 41-3-205.5(1)(b) on or before November 30, 2010.

92 [~~(2)~~-(a)] (b) If the administrator finds that there is reasonable cause to deny, suspend,
93 or revoke a license issued under this chapter, the administrator shall deny, suspend, or revoke
94 the license.

95 [~~(b)~~] (c) Reasonable cause for denial, suspension, or revocation of a license includes,
96 in relation to the applicant or license holder or any of its partners, officers, or directors:

- 97 (i) lack of a principal place of business;
- 98 (ii) lack of a sales tax license required under Title 59, Chapter 12, Sales and Use Tax
99 Act;
- 100 (iii) lack of a bond in effect as required by this chapter;
- 101 (iv) current revocation or suspension of a dealer, dismantler, auction, or salesperson
102 license issued in another state;
- 103 (v) nonpayment of required fees;
- 104 (vi) making a false statement on any application for a license under this chapter or for
105 special license plates;
- 106 (vii) a violation of any state or federal law involving motor vehicles;
- 107 (viii) a violation of any state or federal law involving controlled substances;
- 108 (ix) charges filed with any county attorney, district attorney, or U.S. attorney in any
109 court of competent jurisdiction for a violation of any state or federal law involving motor
110 vehicles;
- 111 (x) a violation of any state or federal law involving fraud; or
- 112 (xi) a violation of any state or federal law involving a registerable sex offense under
113 Section 77-27-21.5.

114 ~~[(e)]~~ (d) Any action taken by the administrator under Subsection (2)~~[(b)]~~~~(c)~~(ix) shall
115 remain in effect until a final resolution is reached by the court involved or the charges are
116 dropped.

117 (3) If the administrator finds that an applicant is not qualified to receive a license
118 under this section, the administrator shall provide the applicant written notice of the reason for
119 the denial.

120 ~~[(3)]~~ (4) If the administrator finds that the license holder has been convicted by a court
121 of competent jurisdiction of violating any of the provisions of this chapter or any rules made
122 by the administrator, or finds other reasonable cause, the administrator may, by complying
123 with the emergency procedures of Title 63G, Chapter 4, Administrative Procedures Act:

124 (a) suspend the license on terms and for a period of time the administrator finds
125 reasonable; or

126 (b) revoke the license.

127 ~~[(4)]~~ (5) (a) After suspending or revoking a license, the administrator may take
128 reasonable action to:

129 (i) notify the public that the licensee is no longer in business; and

130 (ii) prevent the former licensee from violating the law by conducting business without
131 a license.

132 (b) Action under Subsection ~~[(4)]~~ (5)(a) may include signs, banners, barriers, locks,
133 bulletins, and notices.

134 (c) Any business being conducted incidental to the business for which the former
135 licensee was licensed may continue to operate subject to the preventive action taken under this
136 subsection.

137 Section 3. Section **53-10-202** is amended to read:

138 **53-10-202. Criminal identification -- Duties of bureau.**

139 The bureau shall:

140 (1) procure and file information relating to identification and activities of persons
141 who:

- 142 (a) are fugitives from justice;
- 143 (b) are wanted or missing;
- 144 (c) have been arrested for or convicted of a crime under the laws of any state or nation;
- 145 and
- 146 (d) are believed to be involved in racketeering, organized crime, or a dangerous
- 147 offense;
- 148 (2) establish a statewide uniform crime reporting system that shall include:
- 149 (a) statistics concerning general categories of criminal activities;
- 150 (b) statistics concerning crimes that exhibit evidence of prejudice based on race,
- 151 religion, ancestry, national origin, ethnicity, or other categories that the division finds
- 152 appropriate; and
- 153 (c) other statistics as required by the Federal Bureau of Investigation;
- 154 (3) make a complete and systematic record and index of the information obtained
- 155 under this part;
- 156 (4) subject to the restrictions in this part, establish policy concerning the use and
- 157 dissemination of data obtained under this part;
- 158 (5) publish an annual report concerning the extent, fluctuation, distribution, and nature
- 159 of crime in Utah;
- 160 (6) establish a statewide central register for the identification and location of missing
- 161 persons, which may include:
- 162 (a) identifying data including fingerprints of each missing person;
- 163 (b) identifying data of any missing person who is reported as missing to a law
- 164 enforcement agency having jurisdiction;
- 165 (c) dates and circumstances of any persons requesting or receiving information from
- 166 the register; and
- 167 (d) any other information, including blood types and photographs found necessary in
- 168 furthering the purposes of this part;
- 169 (7) publish a quarterly directory of missing persons for distribution to persons or

- 170 entities likely to be instrumental in the identification and location of missing persons;
- 171 (8) list the name of every missing person with the appropriate nationally maintained
- 172 missing persons lists;
- 173 (9) establish and operate a 24-hour communication network for reports of missing
- 174 persons and reports of sightings of missing persons;
- 175 (10) coordinate with the National Center for Missing and Exploited Children and other
- 176 agencies to facilitate the identification and location of missing persons and the identification
- 177 of unidentified persons and bodies;
- 178 (11) receive information regarding missing persons, as provided in Sections 26-2-27
- 179 and 53A-11-502, and stolen vehicles, vessels, and outboard motors, as provided in Section
- 180 41-1a-1401;
- 181 (12) adopt systems of identification, including the fingerprint system, to be used by
- 182 the division to facilitate law enforcement; [~~and~~]
- 183 (13) assign a distinguishing number or mark of identification to any pistol or revolver,
- 184 as provided in Section 76-10-520[-]; and
- 185 (14) check certain criminal records databases for information regarding motor vehicle
- 186 salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons,
- 187 and inform the Motor Vehicle Enforcement Division when new entries are made for certain
- 188 criminal offenses for motor vehicle salespersons in accordance with the requirements of
- 189 Section 41-3-205.5.

190 **Section 4. Effective date.**

191 This bill takes effect on July 1, 2010.