

SB0138S05 compared with SB0138S04

~~text~~ shows text that was in SB0138S04 but was deleted in SB0138S05.

inserted text shows text that was not in SB0138S04 but was inserted into SB0138S05.

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Representative Curtis Oda proposes the following substitute bill:

DRIVER LICENSE QUALIFICATION AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill modifies the Public Safety Code by amending provisions relating to driver license qualifications.

Highlighted Provisions:

This bill:

- ▶ requires every applicant for a driving privilege card to submit fingerprints and a photograph with an application to the Driver License Division;
- ▶ requires a person that renews a driving privilege card to submit fingerprints and a photograph to the Driver License Division if the person has not previously submitted fingerprints and a photograph to the division;
- ▶ requires that the fingerprinting and photograph submission required shall be conducted by the Bureau of Criminal Identification or a law enforcement agency

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that has the capability of handling fingerprint and photograph submissions:

▶ provides that the Driver License Division shall submit fingerprints for each applicant or cardholder to the Bureau of Criminal Identification;

▶ requires the Bureau of Criminal Identification to:

- compare driving privilege card applicant or cardholder fingerprints with certain criminal databases and make certain notifications; and
- maintain a separate file of driving privilege applicant and cardholder fingerprints and make certain notifications when new entries are made on a person's file;

▶ requires the Driver License Division to:

- impose the fees that the Bureau of Criminal Identification is authorized to collect for certain services; and
- remit the fees collected to the Bureau of Criminal Identification; and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2011.

Utah Code Sections Affected:

AMENDS:

53-3-105, as last amended by Laws of Utah 2009, Chapter 45

53-3-106, as last amended by Laws of Utah 2009, Chapters 113 and 183

53-3-205, as last amended by Laws of Utah 2010, Chapter 95

53-10-202, as last amended by Laws of Utah 2010, Chapter 291

ENACTS:

53-3-205.5, Utah Code Annotated 1953

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

Section 1. Section 53-3-105 is amended to read:

53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling, and identification cards.

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The following fees apply under this chapter:

- (1) An original class D license application under Section 53-3-205 is \$25.
- (2) An original provisional license application for a class D license under Section 53-3-205 is \$30.
- (3) An original application for a motorcycle endorsement under Section 53-3-205 is \$9.50.
- (4) An original application for a taxicab endorsement under Section 53-3-205 is \$7.
- (5) A learner permit application under Section 53-3-210.5 is \$15.
- (6) A renewal of a class D license under Section 53-3-214 is \$25 unless Subsection (10) applies.
- (7) A renewal of a provisional license application for a class D license under Section 53-3-214 is \$25.
- (8) A renewal of a motorcycle endorsement under Section 53-3-214 is \$9.50.
- (9) A renewal of a taxicab endorsement under Section 53-3-214 is \$7.
- (10) A renewal of a class D license for a person 65 and older under Section 53-3-214 is \$13.
- (11) An extension of a class D license under Section 53-3-214 is \$20 unless Subsection (15) applies.
- (12) An extension of a provisional license application for a class D license under Section 53-3-214 is \$20.
- (13) An extension of a motorcycle endorsement under Section 53-3-214 is \$9.50.
- (14) An extension of a taxicab endorsement under Section 53-3-214 is \$7.
- (15) An extension of a class D license for a person 65 and older under Section 53-3-214 is \$11.
- (16) An original or renewal application for a commercial class A, B, or C license or an original or renewal of a provisional commercial class A or B license under Part 4, Uniform Commercial Driver License Act, is:
 - (a) \$40 for the knowledge test; and
 - (b) \$60 for the skills test.
- (17) Each original CDL endorsement for passengers, hazardous material, double or triple trailers, or tankers is \$7.

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(18) An original CDL endorsement for a school bus under Part 4, Uniform Commercial Driver License Act, is \$7.

(19) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver License Act, is \$7.

(20) (a) A retake of a CDL knowledge test provided for in Section 53-3-205 is \$20.

(b) A retake of a CDL skills test provided for in Section 53-3-205 is \$40.

(21) A retake of a CDL endorsement test provided for in Section 53-3-205 is \$7.

(22) A duplicate class A, B, C, or D license certificate under Section 53-3-215 is \$18.

(23) (a) A license reinstatement application under Section 53-3-205 is \$30.

(b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or combination of alcohol and any drug-related offense is \$35 in addition to the fee under Subsection (23)(a).

(24) (a) An administrative fee for license reinstatement after an alcohol, drug, or combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under Part 4, Uniform Commercial Driver License Act, is \$170.

(b) This administrative fee is in addition to the fees under Subsection (23).

(25) (a) An administrative fee for providing the driving record of a driver under Section 53-3-104 or 53-3-420 is \$6.

(b) The division may not charge for a report furnished under Section 53-3-104 to a municipal, county, state, or federal agency.

(26) A rescheduling fee under Section 53-3-205 or 53-3-407 is \$25.

(27) (a) Except as provided under Subsections (27)(b) and (c), an identification card application under Section 53-3-808 is \$18.

(b) An identification card application under Section 53-3-808 for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is \$13.

(c) A fee may not be charged for an identification card application if the person applying:

(i) has not been issued a Utah driver license;

(ii) is indigent; and

(iii) is at least 18 years of age.

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(28) In addition to any license application fees collected under this chapter, the division shall impose on individuals submitting fingerprints in accordance with Section 53-3-205.5 the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

Section 2. Section 53-3-106 is amended to read:

53-3-106. Disposition of revenues under this chapter -- Restricted account created -- Uses as provided by appropriation -- Nonlapsing.

(1) There is created within the Transportation Fund a restricted account known as the "Department of Public Safety Restricted Account."

(2) The account consists of money generated from the following revenue sources:

(a) all money received under this chapter;

(b) administrative fees received according to the fee schedule authorized under this chapter and Section 63J-1-504; and

(c) any appropriations made to the account by the Legislature.

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited in the account.

(4) The expenses of the department in carrying out this chapter shall be provided for by legislative appropriation from this account.

(5) The amount in excess of \$45 of the fees collected under Subsection 53-3-105(24) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117, except that of the amount in excess of \$45, \$40 shall be deposited in the State Laboratory Drug Testing Account created in Section 26-1-34.

(6) All money received under Subsection 41-6a-1406(6)(b)(ii) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117.

(7) Beginning in fiscal year 2009-10, the Legislature shall appropriate \$100,000 annually from the account to the state medical examiner appointed under Section 26-4-4 for use in carrying out duties related to highway crash deaths under Subsection 26-4-7(1).

(8) The division shall remit the fees collected under Subsection 53-3-105 (28) to the Bureau of Criminal Identification to cover the costs for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

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~~1(8)~~1(9) Appropriations to the department from the account are nonlapsing.

Section ~~413~~3. Section **53-3-205** is amended to read:

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

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

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

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

- (a) not more than three attempts to pass both the knowledge and the skills tests for a class D license within six months of the date of the application;
- (b) a learner permit if needed pending completion of the application and testing process; and
- (c) an original class D license and license certificate after all tests are passed.

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

- (a) not more than three attempts to pass both the knowledge and skills tests within six months of the date of the application;
- (b) a motorcycle learner permit after the motorcycle knowledge test is passed; and
- (c) a motorcycle or taxicab endorsement when all tests are passed.

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

- (a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application;
- (b) a commercial driver instruction permit if needed after the knowledge test is passed; and
- (c) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

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

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

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

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

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

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

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

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

(e) A regular license certificate and any endorsement to the regular license certificate held by a person ordered to active duty and stationed outside Utah in any of the armed forces of the United States or by an immediate family member or dependent who is residing outside of the state, which expires during the time period the person is stationed outside of the state, is valid until 90 days after the person's orders have been terminated or the person has been discharged, unless:

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

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

(f) A limited-term license certificate or a renewal to a limited-term license certificate expires:

(i) on the expiration date of the period of time of the individual's authorized stay in the United States or on the date provided under this Subsection (7), whichever is sooner; or

(ii) on the birth date of the applicant in the first year following the year that the

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limited-term license certificate was issued if there is no definite end to the individual's period of authorized stay.

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

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

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

(i) provide the applicant's:

(A) full legal name;

(B) birth date;

(C) gender;

(D) (I) documentary evidence of the applicant's valid Social Security number;

(II) written proof that the applicant is ineligible to receive a Social Security number;

(III) temporary identification number (ITIN) issued by the Internal Revenue Service for a person who:

(Aa) does not qualify for a Social Security number; and

(Bb) is applying for a driving privilege card; or

(IV) other documentary evidence approved by the division; **[and]**

(E) Utah residence address as documented by a form or forms acceptable under rules made by the division under Section 53-3-104, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b); and

(F) submit fingerprints and a photograph in accordance with Section 53-3-205.5 if the person is applying for a driving privilege card;

(ii) provide evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(A) that a person is:

(I) a United States citizen;

(II) a national; or

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(III) a legal permanent resident alien; or

(B) of the applicant's:

(I) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(II) pending or approved application for asylum in the United States;

(III) admission into the United States as a refugee;

(IV) pending or approved application for temporary protected status in the United States;

(V) approved deferred action status; or

(VI) pending application for adjustment of status to legal permanent resident or conditional resident;

(iii) provide a description of the applicant;

(iv) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(v) state whether the applicant has ever had any license suspended, cancelled, revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had any license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(vi) state whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);

(vii) state whether the applicant is required to register as a sex offender under Section 77-27-21.5;

(viii) state whether the applicant is a military veteran and does or does not authorize sharing the information with the state Department of Veterans' Affairs;

(ix) provide all other information the division requires; and

(x) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) Each applicant shall have a Utah residence address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

(c) Each applicant shall provide evidence of lawful presence in the United States in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

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(d) The division shall maintain on its computerized records an applicant's:

(i) (A) Social Security number;

(B) temporary identification number (ITIN); or

(C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

(ii) indication whether the applicant is required to register as a sex offender under

Section 77-27-21.5.

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

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

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

(10) (a) Except as provided in Subsection (10)(b), when an applicant receives a license in another class, all previous license certificates shall be surrendered and canceled.

(b) A disqualified commercial license may not be canceled unless it expires before the new license certificate is issued.

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

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

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

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

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

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

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-102, the names and addresses of all persons who under Subsection (8)(a)(vi) indicate that they intend to make an anatomical gift.

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

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

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

(16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans' Affairs the names and addresses of all persons who indicate their status as a veteran under Subsection (8)(a)(viii).

(17) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (8)(a)(vi) or(viii), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(18) A person who knowingly fails to provide the information required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

Section ~~{2}4~~. Section **53-3-205.5** is enacted to read:

53-3-205.5. Fingerprint submission required for driving privilege cardholders.

(1) (a) Every applicant for a driving privilege card shall submit fingerprints and a photograph in a sealed envelope provided by the Bureau of Criminal Identification or a law enforcement agency with the application to the division.

(b) A person that renews a driving privilege card shall submit fingerprints and a photograph in a sealed envelope provided by the Bureau of Criminal Identification or a law enforcement agency to the division if the person has not previously submitted fingerprints and a photograph to the division.

(c) The fingerprinting and photograph submission required under this Subsection (1) shall be conducted by:

(i) the Bureau of Criminal Identification; or

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(ii) a law enforcement agency that has the capability of handling fingerprint and photograph submissions.

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

(~~2~~3) The Bureau of Criminal Identification shall:

(a) check the fingerprints submitted under Subsection (1) against the applicable state and regional criminal records databases; and

(b) notify:

(i) the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security if the person has a felony in the person's criminal history record; or

(ii) the law enforcement agency that is directed to execute a warrant of arrest if an outstanding warrant of arrest has been issued against the person.

(~~3~~4) (a) The Bureau of Criminal Identification shall maintain a separate file of fingerprints submitted under Subsection (1) and notify the following persons when a new entry is made in the applicable state and regional database against a person whose fingerprints are held in the file:

(i) the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security if the person is involved in an arrest under state law involving a felony; or

(ii) the law enforcement agency that is directed to execute a warrant of arrest if an outstanding warrant of arrest is issued against the person.

(b) Upon request of the agency described in Subsection (~~3~~4)(a)(i), the Bureau of Criminal Identification shall inform the agency whether a person whose arrest was reported under Subsection (~~3~~4)(a)(i) was subsequently convicted of the charge for which the person was arrested.

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

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

(b) remit the fees collected under Subsection (5)(a) to the Bureau of Criminal

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Identification.

Section ~~3~~5. Section **53-10-202** is amended to read:

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

The bureau shall:

- (1) procure and file information relating to identification and activities of persons who:
 - (a) are fugitives from justice;
 - (b) are wanted or missing;
 - (c) have been arrested for or convicted of a crime under the laws of any state or nation;

and

- (d) are believed to be involved in racketeering, organized crime, or a dangerous offense;

- (2) establish a statewide uniform crime reporting system that shall include:

- (a) statistics concerning general categories of criminal activities;
- (b) statistics concerning crimes that exhibit evidence of prejudice based on race,

religion, ancestry, national origin, ethnicity, or other categories that the division finds appropriate; and

- (c) other statistics as required by the Federal Bureau of Investigation;

- (3) make a complete and systematic record and index of the information obtained under this part;

- (4) subject to the restrictions in this part, establish policy concerning the use and dissemination of data obtained under this part;

- (5) publish an annual report concerning the extent, fluctuation, distribution, and nature of crime in Utah;

- (6) establish a statewide central register for the identification and location of missing persons, which may include:

- (a) identifying data including fingerprints of each missing person;
- (b) identifying data of any missing person who is reported as missing to a law

enforcement agency having jurisdiction;

- (c) dates and circumstances of any persons requesting or receiving information from the register; and

- (d) any other information, including blood types and photographs found necessary in

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furthering the purposes of this part;

(7) publish a quarterly directory of missing persons for distribution to persons or entities likely to be instrumental in the identification and location of missing persons;

(8) list the name of every missing person with the appropriate nationally maintained missing persons lists;

(9) establish and operate a 24-hour communication network for reports of missing persons and reports of sightings of missing persons;

(10) coordinate with the National Center for Missing and Exploited Children and other agencies to facilitate the identification and location of missing persons and the identification of unidentified persons and bodies;

(11) receive information regarding missing persons, as provided in Sections 26-2-27 and 53A-11-502, and stolen vehicles, vessels, and outboard motors, as provided in Section 41-1a-1401;

(12) adopt systems of identification, including the fingerprint system, to be used by the division to facilitate law enforcement;

(13) assign a distinguishing number or mark of identification to any pistol or revolver, as provided in Section 76-10-520; ~~and~~

(14) check certain criminal records databases for information regarding motor vehicle salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons, and inform the Motor Vehicle Enforcement Division when new entries are made for certain criminal offenses for motor vehicle salespersons in accordance with the requirements of Section 41-3-205.5[-]; and

(15) check certain criminal records databases for information regarding driving privilege card applicants or cardholders and maintain a separate file of fingerprints for driving privilege applicants and cardholders and inform the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security or law enforcement agencies when new entries are made in accordance with the requirements of Section 53-3-205.5.

Section ~~4~~6. **Effective date.**

This bill takes effect on July 1, 2011.

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