

DRIVER LICENSE RECORDS AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Uniform Driver License Act by amending provisions relating to driver license records.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ authorizes the Driver License Division to disclose portions of a driving record to:
 - an employer or a designee of an employer, for purposes of monitoring the driving record and status of current employees who drive as a responsibility of the employees' employment, if the requester demonstrates that the requester has obtained the written consent of the individual to whom the information pertains;
- and
 - an employer or the employer's agents to obtain or verify information relating to a holder of a commercial driver license that is required under federal law;
- ▶ requires that the authorized disclosure of a driving record be limited to the driving record of a current employee of the employer;
- ▶ amends provisions regarding the content of and requirements for disclosing a commercial driver license motor vehicle record; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 This bill takes effect on July 1, 2014.

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **53-3-102**, as last amended by Laws of Utah 2012, Chapter 144

34 **53-3-109**, as last amended by Laws of Utah 2011, Chapters 190 and 243

35 **53-3-221**, as last amended by Laws of Utah 2013, Chapter 411

36 **53-3-402**, as last amended by Laws of Utah 2013, Chapter 411

37 **53-3-410.1**, as last amended by Laws of Utah 2013, Chapter 411

38 **53-3-420**, as last amended by Laws of Utah 2007, Chapter 53

39 **72-9-107**, as last amended by Laws of Utah 2009, Chapters 155 and 356



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

42 Section 1. Section **53-3-102** is amended to read:

43 **53-3-102. Definitions.**

44 As used in this chapter:

45 (1) "Cancellation" means the termination by the division of a license issued through
46 error or fraud or for which consent under Section **53-3-211** has been withdrawn.

47 (2) "Class D license" means the class of license issued to drive motor vehicles not
48 defined as commercial motor vehicles or motorcycles under this chapter.

49 (3) "Commercial driver instruction permit" or "CDIP" means a permit issued under
50 Section **53-3-408**.

51 [~~(3)~~] (4) "Commercial driver license" or "CDL" means a license:

52 (a) issued substantially in accordance with the requirements of Title XII, Pub. L.
53 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4,
54 Uniform Commercial Driver License Act, which authorizes the holder to drive a class of
55 commercial motor vehicle; and

56 (b) that was obtained by providing evidence of lawful presence in the United States
57 with one of the document requirements described in Subsection **53-3-410(1)(i)(i)**.

58 (5) "Commercial driver license motor vehicle record" or "CDL MVR" means a driving

59 record that:

60 (a) applies to a person who holds or is required to hold a commercial driver instruction
61 permit or a CDL license; and

62 (b) contains the following:

63 (i) information contained in the driver history, including convictions, pleas held in
64 abeyance, disqualifications, and other licensing actions for violations of any state or local law
65 relating to motor vehicle traffic control, committed in any type of vehicle;

66 (ii) driver self-certification status information under Section 53-3-410.1; and

67 (iii) information from medical certification recordkeeping in accordance with 49
68 C.F.R. Sec. 383.73(o).

69 ~~[(4)]~~ (6) (a) "Commercial motor vehicle" means a motor vehicle or combination of
70 motor vehicles designed or used to transport passengers or property if the motor vehicle:

71 (i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as
72 determined by federal regulation;

73 (ii) is designed to transport 16 or more passengers, including the driver; or

74 (iii) is transporting hazardous materials and is required to be placarded in accordance
75 with 49 C.F.R. Part 172, Subpart F.

76 (b) The following vehicles are not considered a commercial motor vehicle for purposes
77 of Part 4, Uniform Commercial Driver License Act:

78 (i) equipment owned and operated by the United States Department of Defense when
79 driven by any active duty military personnel and members of the reserves and national guard on
80 active duty including personnel on full-time national guard duty, personnel on part-time
81 training, and national guard military technicians and civilians who are required to wear military
82 uniforms and are subject to the code of military justice;

83 (ii) vehicles controlled and driven by a farmer to transport agricultural products, farm
84 machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation
85 as a motor carrier for hire;

86 (iii) firefighting and emergency vehicles; and

87 (iv) recreational vehicles that are not used in commerce and are driven solely as family
88 or personal conveyances for recreational purposes.

89 ~~[(5)]~~ (7) "Conviction" means any of the following:

90 (a) an unvacated adjudication of guilt or a determination that a person has violated or
91 failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

92 (b) an unvacated forfeiture of bail or collateral deposited to secure a person's
93 appearance in court;

94 (c) a plea of guilty or nolo contendere accepted by the court;

95 (d) the payment of a fine or court costs; or

96 (e) violation of a condition of release without bail, regardless of whether the penalty is
97 rebated, suspended, or probated.

98 ~~[(6)]~~ (8) "Denial" or "denied" means the withdrawal of a driving privilege by the
99 division to which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner's or
100 Operator's Security, do not apply.

101 ~~[(7)]~~ (9) "Director" means the division director appointed under Section 53-3-103.

102 ~~[(8)]~~ (10) "Disqualification" means either:

103 (a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state
104 of a person's privileges to drive a commercial motor vehicle;

105 (b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386,
106 that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part
107 391; or

108 (c) the loss of qualification that automatically follows conviction of an offense listed in
109 49 C.F.R. Part 383.51.

110 ~~[(9)]~~ (11) "Division" means the Driver License Division of the department created in
111 Section 53-3-103.

112 ~~[(10)]~~ (12) "Downgrade" means to obtain a lower license class than what was
113 originally issued during an existing license cycle.

114 ~~[(11)]~~ (13) "Drive" means:

115 (a) to operate or be in physical control of a motor vehicle upon a highway; and

116 (b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections
117 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within
118 the state.

119 ~~[(12)]~~ (14) (a) "Driver" means any person who drives, or is in actual physical control of
120 a motor vehicle in any location open to the general public for purposes of vehicular traffic.

121 (b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person
122 who is required to hold a CDL under Part 4 or federal law.

123 [~~(13)~~] (15) "Driving privilege card" means the evidence of the privilege granted and
124 issued under this chapter to drive a motor vehicle to a person whose privilege was obtained
125 without providing evidence of lawful presence in the United States.

126 [~~(14)~~] (16) "Extension" means a renewal completed in a manner specified by the
127 division.

128 [~~(15)~~] (17) "Farm tractor" means every motor vehicle designed and used primarily as a
129 farm implement for drawing plows, mowing machines, and other implements of husbandry.

130 [~~(16)~~] (18) "Highway" means the entire width between property lines of every way or
131 place of any nature when any part of it is open to the use of the public, as a matter of right, for
132 traffic.

133 [~~(17)~~] (19) "Identification card" means an identification card issued under this chapter
134 to a person whose card was obtained by providing evidence of lawful presence in the United
135 States with one of the document requirements described in Subsection 53-3-804(2)(i)(i).

136 [~~(18)~~] (20) "Indigent" means that a person's income falls below the federal poverty
137 guideline issued annually by the U.S. Department of Health and Human Services in the Federal
138 Register.

139 [~~(19)~~] (21) "License" means the privilege to drive a motor vehicle.

140 [~~(20)~~] (22) (a) "License certificate" means the evidence of the privilege issued under
141 this chapter to drive a motor vehicle.

142 (b) "License certificate" evidence includes a:

- 143 (i) regular license certificate;
144 (ii) limited-term license certificate;
145 (iii) driving privilege card;
146 (iv) CDL license certificate;
147 (v) limited-term CDL license certificate;
148 (vi) temporary regular license certificate; and
149 (vii) temporary limited-term license certificate.

150 [~~(21)~~] (23) "Limited-term commercial driver license" or "limited-term CDL" means a
151 license:

152 (a) issued substantially in accordance with the requirements of Title XII, Pub. L.
153 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4,
154 Uniform Commercial Driver License Act, which authorizes the holder to drive a class of
155 commercial motor vehicle; and

156 (b) that was obtained by providing evidence of lawful presence in the United States
157 with one of the document requirements described in Subsection [53-3-410\(1\)\(i\)\(ii\)](#).

158 [~~22~~] [\(24\)](#) "Limited-term identification card" means an identification card issued under
159 this chapter to a person whose card was obtained by providing evidence of lawful presence in
160 the United States with one of the document requirements described in Subsection
161 [53-3-804\(2\)\(i\)\(ii\)](#).

162 [~~23~~] [\(25\)](#) "Limited-term license certificate" means the evidence of the privilege
163 granted and issued under this chapter to drive a motor vehicle to a person whose privilege was
164 obtained providing evidence of lawful presence in the United States with one of the document
165 requirements described in Subsection [53-3-205\(8\)\(a\)\(ii\)\(B\)](#).

166 [~~24~~] [\(26\)](#) "Motorboat" has the same meaning as provided under Section [73-18-2](#).

167 [~~25~~] [\(27\)](#) "Motorcycle" means every motor vehicle, other than a tractor, having a seat
168 or saddle for the use of the rider and designed to travel with not more than three wheels in
169 contact with the ground.

170 [\(28\)](#) "Motor vehicle record" or "MVR" means a driving record under Subsection
171 [53-3-109\(6\)\(a\)](#).

172 [~~26~~] [\(29\)](#) "Office of Recovery Services" means the Office of Recovery Services,
173 created in Section [62A-11-102](#).

174 [~~27~~] [\(30\)](#) (a) "Owner" means a person other than a lienholder having an interest in the
175 property or title to a vehicle.

176 (b) "Owner" includes a person entitled to the use and possession of a vehicle subject to
177 a security interest in another person but excludes a lessee under a lease not intended as security.

178 [~~28~~] [\(31\)](#) "Regular license certificate" means the evidence of the privilege issued
179 under this chapter to drive a motor vehicle whose privilege was obtained by providing evidence
180 of lawful presence in the United States with one of the document requirements described in
181 Subsection [53-3-205\(8\)\(a\)\(ii\)\(A\)](#).

182 [~~29~~] [\(32\)](#) "Renewal" means to validate a license certificate so that it expires at a later

183 date.

184 ~~[(30)]~~ (33) "Reportable violation" means an offense required to be reported to the
185 division as determined by the division and includes those offenses against which points are
186 assessed under Section 53-3-221.

187 ~~[(31)]~~ (34) (a) "Resident" means an individual who:

188 (i) has established a domicile in this state, as defined in Section 41-1a-202, or
189 regardless of domicile, remains in this state for an aggregate period of six months or more
190 during any calendar year;

191 (ii) engages in a trade, profession, or occupation in this state, or who accepts
192 employment in other than seasonal work in this state, and who does not commute into the state;

193 (iii) declares himself to be a resident of this state by obtaining a valid Utah driver
194 license certificate or motor vehicle registration; or

195 (iv) declares himself a resident of this state to obtain privileges not ordinarily extended
196 to nonresidents, including going to school, or placing children in school without paying
197 nonresident tuition or fees.

198 (b) "Resident" does not include any of the following:

199 (i) a member of the military, temporarily stationed in this state;

200 (ii) an out-of-state student, as classified by an institution of higher education,
201 regardless of whether the student engages in any type of employment in this state;

202 (iii) a person domiciled in another state or country, who is temporarily assigned in this
203 state, assigned by or representing an employer, religious or private organization, or a
204 governmental entity; or

205 (iv) an immediate family member who resides with or a household member of a person
206 listed in Subsections ~~[(31)]~~ (34)(b)(i) through (iii).

207 ~~[(32)]~~ (35) "Revocation" means the termination by action of the division of a licensee's
208 privilege to drive a motor vehicle.

209 ~~[(33)]~~ (36) (a) "School bus" means a commercial motor vehicle used to transport
210 pre-primary, primary, or secondary school students to and from home and school, or to and
211 from school sponsored events.

212 (b) "School bus" does not include a bus used as a common carrier as defined in Section
213 59-12-102.

214 [~~(34)~~] (37) "Suspension" means the temporary withdrawal by action of the division of a
215 licensee's privilege to drive a motor vehicle.

216 [~~(35)~~] (38) "Taxicab" means any class D motor vehicle transporting any number of
217 passengers for hire and that is subject to state or federal regulation as a taxi.

218 Section 2. Section **53-3-109** is amended to read:

219 **53-3-109. Records -- Access -- Fees -- Rulemaking.**

220 (1) (a) Except as provided in this section, all records of the division shall be classified
221 and disclosed in accordance with Title 63G, Chapter 2, Government Records Access and
222 Management Act.

223 (b) The division may only disclose personal identifying information:

224 (i) when the division determines it is in the interest of the public safety to disclose the
225 information; and

226 (ii) in accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C.
227 Chapter 123.

228 (c) The division may disclose personal identifying information:

229 (i) to a licensed private investigator holding a valid agency license, with a legitimate
230 business need;

231 (ii) to an insurer, insurance support organization, or a self-insured entity, or its agents,
232 employees, or contractors that issues any motor vehicle insurance under Title 31A, Chapter 22,
233 Part 3, Motor Vehicle Insurance, for use in connection with claims investigation activities,
234 antifraud activities, rating, or underwriting for any person issued a license certificate under this
235 chapter; or

236 (iii) to a depository institution as defined in Section **7-1-103** for use in accordance with
237 the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123.

238 (2) (a) A person who receives personal identifying information shall be advised by the
239 division that the person may not:

240 (i) disclose the personal identifying information from that record to any other person;
241 or

242 (ii) use the personal identifying information from that record for advertising or
243 solicitation purposes.

244 (b) Any use of personal identifying information by an insurer or insurance support

245 organization, or by a self-insured entity or its agents, employees, or contractors not authorized
 246 by Subsection (1)(c)(ii) is:

247 (i) an unfair marketing practice under Section 31A-23a-402; or

248 (ii) an unfair claim settlement practice under Subsection 31A-26-303(3).

249 (3) (a) Notwithstanding the provisions of Subsection (1)(b), the division or its designee
 250 may disclose portions of a driving record, in accordance with this Subsection (3), to:

251 (i) an insurer as defined under Section 31A-1-301, or a designee of an insurer, for
 252 purposes of assessing driving risk on the insurer's current motor vehicle insurance

253 policyholders[-];

254 (ii) an employer or a designee of an employer, for purposes of monitoring the driving
 255 record and status of current employees who drive as a responsibility of the employee's

256 employment if the requester demonstrates that the requester has obtained the written consent of
 257 the individual to whom the information pertains; and

258 (iii) an employer or the employer's agents to obtain or verify information relating to a
 259 holder of a commercial driver license that is required under 49 U.S.C. Chapter 313.

260 (b) The disclosure under Subsection (3)(a) shall:

261 (i) include the licensed driver's name, driver license number, date of birth, and an
 262 indication of whether the driver has had a moving traffic violation that is a reportable violation,
 263 as defined under Section 53-3-102 during the previous month;

264 (ii) be limited to the records of drivers who, at the time of the disclosure, are covered
 265 under a motor vehicle insurance policy of the insurer; [~~and~~]

266 (iii) be limited to the records of a current employee of an employer; and

267 [~~(iii)~~] (iv) be made under a contract with the insurer, employer, or a designee of an
 268 insurer or employer.

269 (c) In addition to the disclosure under Subsection (3)(b), the disclosure under
 270 Subsections (3)(a)(ii) and (iii) shall include an indication of whether the driver has had a
 271 change reflected in the driver's driving status or license class.

272 [~~(c)~~] (d) The contract under Subsection (3)(b)[~~(iii)~~](iv) shall specify:

273 (i) the criteria for searching and compiling the driving records being requested;

274 (ii) the frequency of the disclosures;

275 (iii) the format of the disclosures, which may be in bulk electronic form; and

276 (iv) a reasonable charge for the driving record disclosures under this Subsection (3).

277 (4) The division may:

278 (a) collect fees in accordance with Section 53-3-105 for searching and compiling its
279 files or furnishing a report on the driving record of a person;

280 (b) prepare under the seal of the division and deliver upon request, a certified copy of
281 any record of the division, and charge a fee under Section 63J-1-504 for each document
282 authenticated; and

283 (c) charge reasonable fees established in accordance with the procedures and
284 requirements of Section 63J-1-504 for disclosing personal identifying information under
285 Subsection (1)(c).

286 (5) Each certified copy of a driving record furnished in accordance with this section is
287 admissible in any court proceeding in the same manner as the original.

288 (6) (a) A driving record furnished under this section may only report on the driving
289 record of a person for a period of 10 years.

290 (b) Subsection (6)(a) does not apply to court or law enforcement reports, reports of
291 commercial driver license violations, or reports for commercial driver license holders.

292 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
293 division may make rules to designate:

294 (a) what information shall be included in a report on the driving record of a person;

295 (b) the form of a report or copy of the report which may include electronic format;

296 (c) the form of a certified copy, as required under Section 53-3-216, which may include
297 electronic format;

298 (d) the form of a signature required under this chapter which may include electronic
299 format;

300 (e) the form of written request to the division required under this chapter which may
301 include electronic format;

302 (f) the procedures, requirements, and formats for disclosing personal identifying
303 information under Subsection (1)(c); and

304 (g) the procedures, requirements, and formats necessary for the implementation of
305 Subsection (3).

306 (8) (a) It is a class B misdemeanor for a person to knowingly or intentionally access,

307 use, disclose, or disseminate a record created or maintained by the division or any information
308 contained in a record created or maintained by the division for a purpose prohibited or not
309 permitted by statute, rule, regulation, or policy of a governmental entity.

310 (b) A person who discovers or becomes aware of any unauthorized use of records
311 created or maintained by the division shall inform the commissioner and the division director
312 of the unauthorized use.

313 Section 3. Section **53-3-221** is amended to read:

314 **53-3-221. Offenses that may result in denial, suspension, disqualification, or**
315 **revocation of license without hearing -- Additional grounds for suspension -- Point system**
316 **for traffic violations -- Notice and hearing -- Reporting of traffic violation procedures.**

317 (1) By following the emergency procedures in Title 63G, Chapter 4, Administrative
318 Procedures Act, the division may immediately deny, suspend, disqualify, or revoke the license
319 of any person without hearing and without receiving a record of the person's conviction of
320 crime when the division has been notified or has reason to believe the person:

321 (a) has committed any offenses for which mandatory suspension or revocation of a
322 license is required upon conviction under Section [53-3-220](#);

323 (b) has, by reckless or unlawful driving of a motor vehicle, caused or contributed to an
324 accident resulting in death or injury to any other person, or serious property damage;

325 (c) is incompetent to drive a motor vehicle or is afflicted with mental or physical
326 infirmities or disabilities rendering it unsafe for the person to drive a motor vehicle upon the
327 highways;

328 (d) has committed a serious violation of the motor vehicle laws of this state;

329 (e) has knowingly committed a violation of Section [53-3-229](#); or

330 (f) has been convicted of serious offenses against traffic laws governing the movement
331 of motor vehicles with a frequency that indicates a disrespect for traffic laws and a disregard
332 for the safety of other persons on the highways.

333 (2) (a) The division may suspend the license of a person under Subsection (1) when the
334 person has failed to comply with the terms stated on a traffic citation issued in this state, except
335 this Subsection (2) does not apply to highway weight limit violations or violations of law
336 governing the transportation of hazardous materials.

337 (b) This Subsection (2) applies to parking and standing violations only if a court has

338 issued a warrant for the arrest of a person for failure to post bail, appear, or otherwise satisfy
339 the terms of the citation.

340 (c) (i) This Subsection (2) may not be exercised unless notice of the pending
341 suspension of the driving privilege has been sent at least 10 days previously to the person at the
342 address provided to the division.

343 (ii) After clearance by the division, a report authorized by Section 53-3-104 may not
344 contain any evidence of a suspension that occurred as a result of failure to comply with the
345 terms stated on a traffic citation.

346 (3) (a) The division may suspend the license of a person under Subsection (1) when the
347 division has been notified by a court that the person has an outstanding unpaid fine, an
348 outstanding incomplete restitution requirement, or an outstanding warrant levied by order of a
349 court.

350 (b) The suspension remains in effect until the division is notified by the court that the
351 order has been satisfied.

352 (c) After clearance by the division, a report authorized by Section 53-3-104 may not
353 contain any evidence of the suspension.

354 (d) The provisions of Subsection (3)(c) do not apply to:

355 (i) a CDIP or CDL license holder; or

356 (ii) a violation that occurred in a commercial motor vehicle.

357 (4) (a) The division shall make rules establishing a point system as provided for in this
358 Subsection (4).

359 (b) (i) The division shall assign a number of points to each type of moving traffic
360 violation as a measure of its seriousness.

361 (ii) The points shall be based upon actual relationships between types of traffic
362 violations and motor vehicle traffic accidents.

363 (iii) Except as provided in Subsection (4)(b)(iv), the division may not assess points
364 against a person's driving record for a conviction of a traffic violation:

365 (A) that occurred in another state; and

366 (B) that was committed on or after July 1, 2011.

367 (iv) The provisions of Subsection (4)(b)(iii) do not apply to:

368 (A) a reckless or impaired driving violation or a speeding violation for exceeding the

369 posted speed limit by 21 or more miles per hour; or

370 (B) an offense committed in another state which, if committed within Utah, would
371 result in the mandatory suspension or revocation of a license upon conviction under Section
372 [53-3-220](#).

373 (c) Every person convicted of a traffic violation shall have assessed against the person's
374 driving record the number of points that the division has assigned to the type of violation of
375 which the person has been convicted, except that the number of points assessed shall be
376 decreased by 10% if on the abstract of the court record of the conviction the court has graded
377 the severity of violation as minimum, and shall be increased by 10% if on the abstract the court
378 has graded the severity of violation as maximum.

379 (d) (i) A separate procedure for assessing points for speeding offenses shall be
380 established by the division based upon the severity of the offense.

381 (ii) The severity of a speeding violation shall be graded as:

382 (A) "minimum" for exceeding the posted speed limit by up to 10 miles per hour;

383 (B) "intermediate" for exceeding the posted speed limit by from 11 to 20 miles per
384 hour; and

385 (C) "maximum" for exceeding the posted speed limit by 21 or more miles per hour.

386 (iii) Consideration shall be made for assessment of no points on minimum speeding
387 violations, except for speeding violations in school zones.

388 (e) (i) Points assessed against a person's driving record shall be deleted for violations
389 occurring before a time limit set by the division.

390 (ii) The time limit may not exceed three years.

391 (iii) The division may also delete points to reward violation-free driving for periods of
392 time set by the division.

393 (f) (i) By publication in two newspapers having general circulation throughout the
394 state, the division shall give notice of the number of points it has assigned to each type of
395 traffic violation, the time limit set by the division for the deletion of points, and the point level
396 at which the division will generally take action to deny or suspend under this section.

397 (ii) The division may not change any of the information provided above regarding
398 points without first giving new notice in the same manner.

399 (5) (a) (i) Upon denying or suspending the license of a person under this section, the

400 division shall immediately notify the licensee in a manner specified by the division and afford
401 him an opportunity for a hearing in the county where the licensee resides.

402 (ii) The hearing shall be documented, and the division or its authorized agent may
403 administer oaths, may issue subpoenas for the attendance of witnesses and the production of
404 relevant books and papers, and may require a reexamination of the licensee.

405 (iii) One or more members of the division may conduct the hearing, and any decision
406 made after a hearing before any number of the members of the division is as valid as if made
407 after a hearing before the full membership of the division.

408 (iv) After the hearing the division shall either rescind its order of denial or suspension,
409 extend the denial or suspension of the license, or revoke the license.

410 (b) The denial or suspension of the license remains in effect pending qualifications
411 determined by the division regarding a person:

412 (i) whose license has been denied or suspended following reexamination;

413 (ii) who is incompetent to drive a motor vehicle;

414 (iii) who is afflicted with mental or physical infirmities that might make him dangerous
415 on the highways; or

416 (iv) who may not have the necessary knowledge or skill to drive a motor vehicle safely.

417 (6) (a) Subject to Subsection (6)(d), the division shall suspend a person's license when
418 the division receives notice from the Office of Recovery Services that the Office of Recovery
419 Services has ordered the suspension of the person's license.

420 (b) A suspension under Subsection (6)(a) shall remain in effect until the division
421 receives notice from the Office of Recovery Services that the Office of Recovery Services has
422 rescinded the order of suspension.

423 (c) After an order of suspension is rescinded under Subsection (6)(b), a report
424 authorized by Section [53-3-104](#) may not contain any evidence of the suspension.

425 (d) (i) If the division suspends a person's license under this Subsection (6), the division
426 shall, upon application, issue a temporary limited driver license to the person if that person
427 needs a driver license for employment, education, or child visitation.

428 (ii) The temporary limited driver license described in this section:

429 (A) shall provide that the person may operate a motor vehicle only for the purpose of
430 driving to or from the person's place of employment, education, or child visitation;

431 (B) shall prohibit the person from driving a motor vehicle for any purpose other than a
432 purpose described in Subsection (6)(d)(ii)(A); and

433 (C) shall expire 90 days after the day on which the temporary limited driver license is
434 issued.

435 (iii) (A) During the period beginning on the day on which a temporary limited driver
436 license is issued under this Subsection (6), and ending on the day that the temporary limited
437 driver license expires, the suspension described in this Subsection (6) only applies if the person
438 who is suspended operates a motor vehicle for a purpose other than employment, education, or
439 child visitation.

440 (B) Upon expiration of a temporary limited driver license described in this Subsection
441 (6)(d):

442 (I) a suspension described in Subsection (6)(a) shall be in full effect until the division
443 receives notice, under Subsection (6)(b), that the order of suspension is rescinded; and

444 (II) a person suspended under Subsection (6)(a) may not drive a motor vehicle for any
445 reason.

446 (iv) The division is not required to issue a limited driver license to a person under this
447 Subsection (6)(d) if there are other legal grounds for the suspension of the person's driver
448 license.

449 (v) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
450 Administrative Rulemaking Act, to implement the provisions of this part.

451 (7) (a) The division may suspend or revoke the license of any resident of this state
452 upon receiving notice of the conviction of that person in another state of an offense committed
453 there that, if committed in this state, would be grounds for the suspension or revocation of a
454 license.

455 (b) The division may, upon receiving a record of the conviction in this state of a
456 nonresident driver of a motor vehicle or motorboat of any offense under the motor vehicle laws
457 of this state, forward a certified copy of the record to the motor vehicle administrator in the
458 state where the person convicted is a resident.

459 (8) (a) The division may suspend or revoke the license of any nonresident to drive a
460 motor vehicle in this state for any cause for which the license of a resident driver may be
461 suspended or revoked.

462 (b) Any nonresident who drives a motor vehicle upon a highway when the person's
463 license has been suspended or revoked by the division is guilty of a class C misdemeanor.

464 (9) (a) The division may not deny or suspend the license of any person for a period of
465 more than one year except:

466 (i) for failure to comply with the terms of a traffic citation under Subsection (2);

467 (ii) upon receipt of a second or subsequent order suspending juvenile driving privileges
468 under Section 53-3-219;

469 (iii) when extending a denial or suspension upon receiving certain records or reports
470 under Subsection 53-3-220(2);

471 (iv) for failure to give and maintain owner's or operator's security under Section
472 41-12a-411;

473 (v) when the division suspends the license under Subsection (6); or

474 (vi) when the division denies the license under Subsection (14).

475 (b) The division may suspend the license of a person under Subsection (2) until the
476 person shows satisfactory evidence of compliance with the terms of the traffic citation.

477 (10) (a) By following the emergency procedures in Title 63G, Chapter 4,
478 Administrative Procedures Act, the division may immediately suspend the license of any
479 person without hearing and without receiving a record of the person's conviction for a crime
480 when the division has reason to believe that the person's license was granted by the division
481 through error or fraud or that the necessary consent for the license has been withdrawn or is
482 terminated.

483 (b) The procedure upon suspension is the same as under Subsection (5), except that
484 after the hearing the division shall either rescind its order of suspension or cancel the license.

485 (11) (a) The division, having good cause to believe that a licensed driver is
486 incompetent or otherwise not qualified to be licensed, may upon notice in a manner specified
487 by the division of at least five days to the licensee require him to submit to an examination.

488 (b) Upon the conclusion of the examination the division may suspend or revoke the
489 person's license, permit him to retain the license, or grant a license subject to a restriction
490 imposed in accordance with Section 53-3-208.

491 (c) Refusal or neglect of the licensee to submit to an examination is grounds for
492 suspension or revocation of the licensee's license.

493 (12) (a) Except as provided in Subsection (12)(b), a report authorized by Section
494 53-3-104 may not contain any evidence of a conviction for speeding on an interstate system in
495 this state if the conviction was for a speed of 10 miles per hour or less, above the posted speed
496 limit and did not result in an accident, unless authorized in a manner specified by the division
497 by the individual whose report is being requested.

498 (b) The provisions of Subsection (12)(a) do not apply for:

499 (i) a CDIP or CDL license holder; or

500 (ii) a violation that occurred in a commercial motor vehicle.

501 (13) (a) By following the emergency procedures in Title 63G, Chapter 4,
502 Administrative Procedures Act, the division may immediately suspend the license of a person
503 if it has reason to believe that the person is the owner of a motor vehicle for which security is
504 required under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and
505 Operators Act, and has driven the motor vehicle or permitted it to be driven within this state
506 without the security being in effect.

507 (b) The division may immediately suspend a driving privilege card holder's driving
508 privilege card if the division receives notification from the Motor Vehicle Division that:

509 (i) the driving privilege card holder is the registered owner of a vehicle; and

510 (ii) the driving privilege card holder's vehicle registration has been revoked under
511 Subsection 41-1a-110(2)(a)(ii)(A).

512 (c) Section 41-12a-411 regarding the requirement of proof of owner's or operator's
513 security applies to persons whose driving privileges are suspended under this Subsection (13).

514 (d) If the division exercises the right of immediate suspension granted under this
515 Subsection (13), the notice and hearing provisions of Subsection (5) apply.

516 (e) A person whose license suspension has been sustained or whose license has been
517 revoked by the division under this Subsection (13) may file a request for agency action
518 requesting a hearing.

519 (14) The division may deny an individual's license if the person fails to comply with
520 the requirement to downgrade the person's CDL to a class D license under Section 53-3-410.1.

521 (15) The division may deny a person's class A, B, C, or D license if the person fails to
522 comply with the requirement to have a K restriction removed from the person's license.

523 (16) Any suspension or revocation of a person's license under this section also

524 disqualifies any license issued to that person under Part 4, Uniform Commercial Driver License
525 Act.

526 Section 4. Section **53-3-402** is amended to read:

527 **53-3-402. Definitions.**

528 As used in this part:

529 (1) "Alcohol" means any substance containing any form of alcohol, including ethanol,
530 methanol, propanol, and isopropanol.

531 (2) "Alcohol concentration" means the number of grams of alcohol per:

532 (a) 100 milliliters of blood;

533 (b) 210 liters of breath; or

534 (c) 67 milliliters of urine.

535 ~~[(3) "Commercial driver instruction permit" or "CDIP" means a permit issued under~~
536 ~~Section **53-3-408**.]~~

537 ~~[(4)]~~ (3) "Commercial driver license information system" or "CDLIS" means the
538 information system established under Title XII, Pub. L. 99-570, the Commercial Motor Vehicle
539 Safety Act of 1986, as a clearinghouse for information related to the licensing and
540 identification of commercial motor vehicle drivers.

541 ~~[(5)]~~ (4) "Controlled substance" means any substance so classified under Section
542 102(6) of the Controlled Substance Act, 21 U.S.C. 802(6), and includes all substances listed on
543 the current Schedules I through V of 21 C.F.R., Part 1308 as they may be revised from time to
544 time.

545 ~~[(6)]~~ (5) "Employee" means any driver of a commercial motor vehicle, including:

546 (a) full-time, regularly employed drivers;

547 (b) casual, intermittent, or occasional drivers;

548 (c) leased drivers; and

549 (d) independent, owner-operator contractors while in the course of driving a
550 commercial motor vehicle who are either directly employed by or under lease to an employer.

551 ~~[(7)]~~ (6) "Employer" means any individual or person including the United States, a
552 state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or
553 assigns an individual to drive a commercial motor vehicle.

554 ~~[(8)]~~ (7) "Felony" means any offense under state or federal law that is punishable by

555 death or imprisonment for a term of more than one year.

556 ~~[(9)]~~ (8) "Foreign jurisdiction" means any jurisdiction other than the United States or a
557 state of the United States.

558 ~~[(10)]~~ (9) "Gross vehicle weight rating" or "GVWR" means the value specified by the
559 manufacturer as the maximum loaded weight of a single vehicle or GVWR of a combination or
560 articulated vehicle, and includes the GVWR of the power unit plus the total weight of all towed
561 units and the loads on those units.

562 ~~[(11)]~~ (10) "Hazardous material" has the same meaning as defined under 49 C.F.R.
563 Sec. 383.5.

564 ~~[(12)]~~ (11) "Imminent hazard" means the existence of a condition, practice, or violation
565 that presents a substantial likelihood that death, serious illness, severe personal injury, or a
566 substantial endangerment to health, property, or the environment is expected to occur
567 immediately, or before the condition, practice, or violation can be abated.

568 ~~[(13)]~~ (12) "Medical certification status" means the medical certification of a
569 commercial driver license holder or commercial motor vehicle operator in any of the following
570 categories:

571 (a) Non-excepted interstate. A person shall certify that the person:

572 (i) operates or expects to operate in interstate commerce;

573 (ii) is both subject to and meets the qualification requirements under 49 C.F.R. Part
574 391; and

575 (iii) is required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45.

576 (b) Excepted interstate. A person shall certify that the person:

577 (i) operates or expects to operate in interstate commerce, but engages exclusively in
578 transportation or operations excepted under 49 C.F.R. Sec. 390.3(f), 391.2, 391.68, or 398.3
579 from all or parts of the qualification requirements of 49 C.F.R. Part 391; and

580 (ii) is not required to obtain a medical examiner's certificate under 49 C.F.R. Sec.
581 391.45.

582 (c) Non-excepted intrastate. A person shall certify that the person:

583 (i) operates only in intrastate commerce; and

584 (ii) is subject to state driver qualification requirements under Sections [53-3-303.5](#),
585 [53-3-304](#), and [53-3-414](#).

- 586 (d) Excepted intrastate. A person shall certify that the person:
587 (i) operates in intrastate commerce; and
588 (ii) engages exclusively in transportation or operations excepted from all parts of the
589 state driver qualification requirements.
- 590 [~~(14)~~] (13) "NDR" means the National Driver Register.
591 [~~(15)~~] (14) "Nonresident CDL" means a commercial driver license issued by a state to
592 an individual who resides in a foreign jurisdiction.
- 593 [~~(16)~~] (15) "Out-of-service order" means a temporary prohibition against driving a
594 commercial motor vehicle.
- 595 [~~(17)~~] (16) "Port-of-entry agent" has the same meaning as provided in Section
596 [72-1-102](#).
- 597 [~~(18)~~] (17) "Serious traffic violation" means a conviction of any of the following:
598 (a) speeding 15 or more miles per hour above the posted speed limit;
599 (b) reckless driving as defined by state or local law;
600 (c) improper or erratic traffic lane changes;
601 (d) following the vehicle ahead too closely;
602 (e) any other motor vehicle traffic law which arises in connection with a fatal traffic
603 accident;
604 (f) operating a commercial motor vehicle without a CDL or a CDIP;
605 (g) operating a commercial motor vehicle without the proper class of CDL or CDL
606 endorsement for the type of vehicle group being operated or for the passengers or cargo being
607 transported;
608 (h) operating a commercial motor vehicle without a CDL or CDIP license certificate in
609 the driver's possession in violation of Section [53-3-404](#);
610 (i) using a handheld wireless communication device in violation of Section [41-6a-1716](#)
611 while operating a commercial motor vehicle; or
612 (j) using a hand-held mobile telephone while operating a commercial motor vehicle in
613 violation of 49 C.F.R. Sec. 392.82.
- 614 [~~(19)~~] (18) "State" means a state of the United States, the District of Columbia, any
615 province or territory of Canada, or Mexico.
- 616 [~~(20)~~] (19) "United States" means the 50 states and the District of Columbia.

617 Section 5. Section **53-3-410.1** is amended to read:

618 **53-3-410.1. Medical certification requirements.**

619 (1) A person whose medical certification status is:

620 (a) "non-excepted interstate" under Subsection ~~53-3-402~~(12)(a) is required to
621 provide the division a medical self certification and an updated medical examiner's certificate
622 under 49 C.F.R. Sec. 391.45 upon request by the division;

623 (b) "excepted interstate" under Subsection ~~53-3-402~~(12)(b) is required to provide
624 to the division a medical self certification upon request by the division;

625 (c) "non-excepted intrastate" under Subsection ~~53-3-402~~(12)(c) is required to,
626 upon request by the division:

627 (i) provide to the division a medical self certification; and

628 (ii) comply with the requirements of Section ~~53-3-303.5~~; or

629 (d) "excepted intrastate" under Subsection ~~53-3-402~~(12)(b) is required to, upon
630 request by the division:

631 (i) provide to the division a medical self certification; and

632 (ii) (A) provide to the division an updated medical examiner's certificate under 49
633 C.F.R. Sec. 391.45; or

634 (B) comply with the requirements of Section ~~53-3-303.5~~.

635 (2) A request by the division for a person to comply with Subsection (1) shall
636 correspond with the expiration of the previously submitted medical examiner's certificate.

637 (3) If a person fails to comply with a request under this section, the person shall be
638 required to downgrade the person's CDL to a class D license.

639 (4) Failure to comply with the requirement of this section shall result in the denial of
640 the license under Section ~~53-3-221~~.

641 Section 6. Section **53-3-420** is amended to read:

642 **53-3-420. Driver's driving record available for certain purposes.**

643 The division shall provide [~~full information regarding the driving record~~] the CDL
644 MVR of any holder of a CDIP or CDL within 10 days of a request to:

645 [~~(1) the driver license administrator of any other state requesting that information;~~]

646 (1) another state via the commercial driver license information system;

647 (2) [any employer or prospective employer of a person to drive a commercial motor

648 ~~vehicle]~~ a motor carrier or prospective motor carrier with a release that includes the notarized
649 signature of the subject of the record granting disclosure of the record upon request and
650 payment of a fee under Section 53-3-105;

651 (3) ~~[insurers of commercial motor vehicle drivers]~~ the subject of the record upon
652 request and payment of a fee under Section 53-3-105; and

653 (4) the Secretary of the United States Department of Transportation.

654 Section 7. Section 72-9-107 is amended to read:

655 **72-9-107. Medical exemptions for farm vehicle operators.**

656 Except as provided in Section 53-3-206, an operator of a farm vehicle or combination
657 of farm vehicles is exempt from additional requirements for physical qualifications, medical
658 examinations, and medical certification if the farm vehicle or combination of farm vehicles
659 being operated is:

660 (1) under 26,001 pounds gross vehicle weight rating;

661 (2) not operated as a commercial motor vehicle in accordance with Subsection
662 53-3-102~~(4)~~(6)(b)(ii); and

663 (3) not operated as an interstate commercial motor vehicle.

664 Section 8. **Effective date.**

665 This bill takes effect on July 1, 2014.

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Office of Legislative Research and General Counsel