

Part 3

Impaired Persons Licensing Act

53-3-301 Short title.

This part is known as the "Impaired Persons Licensing Act."

Enacted by Chapter 234, 1993 General Session

53-3-302 Definitions.

As used in this part:

- (1) "Board" means the Driver License Medical Advisory Board created in Section 53-3-303.
- (2) "Health care professional" means a physician or surgeon licensed to practice medicine in the state, or when recommended by the Medical Advisory Board, may include other health care professionals licensed to conduct physical examinations in this state.
- (3)
 - (a) "Impaired person" means a person who has a mental, emotional, or nonstable physical disability or disease that may impair the person's ability to exercise reasonable and ordinary control at all times over a motor vehicle while driving on the highways.
 - (b) "Impaired person" does not include a person having a nonprogressive or stable physical impairment that is objectively observable and that may be evaluated by a functional driving examination.

Enacted by Chapter 234, 1993 General Session

53-3-303 Driver License Medical Advisory Board -- Membership -- Guidelines for licensing impaired persons -- Recommendations to division.

- (1) There is created within the division the Driver License Medical Advisory Board.
- (2)
 - (a) The board is comprised of three regular members appointed by the Commissioner of Public Safety to four-year terms.
 - (b) The board shall be assisted by expert panel members nominated by the board as necessary and as approved by the Commissioner of Public Safety.
 - (c) Notwithstanding the requirements of Subsection (2)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
 - (d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
 - (e) The expert panel members shall recommend medical standards in the areas of the panel members' special competence for determining the physical, mental, and emotional capabilities of applicants for licenses and licensees.
- (3) In reviewing individual cases, a panel acting with the authority of the board consists of at least two members, of which at least one is a regular board member.
- (4) The director of the division or his designee serves as secretary to the board and its panels.
- (5) Members of the board and expert panel members nominated by them shall be health care professionals.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (7) The board shall meet from time to time when called by the director of the division.
- (8)
- (a) The board shall recommend guidelines and standards for determining the physical, mental, and emotional capabilities of applicants for licenses and for licensees.
 - (b) The guidelines and standards are applicable to all Utah licensees and for all individuals who hold learner permits and are participating in driving activities in all forms of driver education.
 - (c) The guidelines and standards shall be published by the division.
- (9) If the division has reason to believe that an applicant or licensee is an impaired person, it may:
- (a) act upon the matter based upon the published guidelines and standards; or
 - (b) convene a panel to consider the matter and submit findings and a recommendation; the division shall consider the recommendation along with other evidence in determining whether a license should be suspended, revoked, denied, disqualified, canceled, or restricted.
- (10)
- (a) If the division has acted under Subsection (9) to suspend, revoke, deny, disqualify, cancel, or restrict the driving privilege without the convening of a panel, the affected applicant or licensee may within 10 days of receiving notice of the action request in a manner prescribed by the division a review of the division's action by a panel.
 - (b) The panel shall review the matters and make written findings and conclusions.
 - (c) The division shall affirm or modify its previous action.
- (11)
- (a) Actions of the division are subject to judicial review as provided in this part.
 - (b) The guidelines, standards, findings, conclusions, and recommendations of the board or of a panel are admissible as evidence in any judicial review.
- (12) Members of the board and its panels incur no liability for recommendations, findings, conclusions, or for other acts performed in good faith and incidental to membership on the board or a panel.
- (13) The division shall provide forms for the use of health care professionals in depicting the medical history of any physical, mental, or emotional impairment affecting the applicant's or licensee's ability to drive a motor vehicle.
- (14)
- (a)
 - (i) Individuals who apply for or hold a license and have, or develop, or suspect that they have developed a physical, mental, or emotional impairment that may affect driving safety are responsible for reporting this to the division or its agent.
 - (ii) If there is uncertainty, the individual is expected to seek competent medical evaluation and advice as to the significance of the impairment as it relates to driving safety, and to refrain from driving until a clarification is made.
 - (b) Health care professionals who care for patients with physical, mental, or emotional impairments that may affect their driving safety, whether defined by published guidelines and standards or not, are responsible for making available to their patients without reservation their recommendations and appropriate information related to driving safety and responsibilities.
 - (c) A health care professional or other person who becomes aware of a physical, mental, or emotional impairment that appears to present an imminent threat to driving safety and reports

this information to the division in good faith has immunity from any damages claimed as a result of making the report.

Amended by Chapter 286, 2010 General Session

53-3-303.5 Driver License Medical Advisory Board -- Medical waivers.

- (1) The Driver License Medical Advisory Board shall:
 - (a) advise the director of the division; and
 - (b) establish and recommend in a manner specified by the board functional ability profile guidelines and standards for determining the physical, mental, and emotional capabilities of applicants for specific types of licenses, appropriate to various driving abilities.
- (2)
 - (a) The Driver License Medical Advisory Board shall establish fitness standards, including provisions for a waiver of specified federal driver's physical qualifications under 49 CFR 391.41, for intrastate commercial driving privileges.
 - (b) The standards under this Subsection (2) may only be implemented if the United States Department of Transportation (USDOT) will not impose any sanctions, including funding sanctions, against the state.
- (3) In case of uncertainty of interpretation of these guidelines and standards, or in special circumstances, applicants may request a review of any division decision by a panel of board members. All of the actions of the director and board are subject to judicial review.
- (4)
 - (a) If a person applies for a waiver established under Subsection (2), the applicant shall bear any costs directly associated with the cost of administration of the waiver program, with respect to the applicant's application, in addition to any fees required under Section 53-3-105.
 - (b) The division shall establish any additional fee necessary to administer the license under this Subsection (4) in accordance with Section 63J-1-504.

Amended by Chapter 183, 2009 General Session

53-3-304 Licensing of persons with impairments -- Medical review -- Restricted license -- Procedures.

- (1)
 - (a) If the division has reason to believe that an applicant for a license or a mobility vehicle permit is a person with an impairment, the division may require one or both of the following:
 - (i) a physical examination of the applicant by a health care professional and the submittal by the health care professional of a signed medical report indicating the results of the physical examination;
 - (ii) a follow-up medical review of the applicant by a health care professional and completion of a medical report at intervals established by the division under standards recommended by the board.
 - (b) The format of the medical report required under Subsection (1)(a) shall be devised by the division with the advice of the board and shall elicit the necessary medical information to determine whether it would be a public safety hazard to permit the applicant to drive a motor vehicle or mobility vehicle on the highways.
- (2)
 - (a) The division may grant a restricted license to a person with an impairment who is otherwise qualified to obtain a license.

- (b) The division may grant a restricted mobility vehicle permit to a person with an impairment who is otherwise qualified to obtain a mobility vehicle permit.
 - (c) The license or mobility vehicle permit continues in effect until its expiration date so long as the licensee complies with the requirements set forth by the division.
 - (d) The license or mobility vehicle permit renewal is subject to the conditions of this section.
 - (e) Any physical, mental, or emotional impairment of the applicant that in the opinion of the division does not affect the applicant's ability to exercise reasonable and ordinary control at all times in driving a motor vehicle upon the highway, does not prevent granting a license or mobility vehicle permit to the applicant.
- (3)
- (a) If an examination is required under this section, the division is not bound by the recommendation of the examining health care professional but shall give fair consideration to the recommendation in acting upon the application. The criterion is whether upon all the evidence it is safe to permit the applicant to drive a motor vehicle or mobility vehicle.
 - (b) In deciding whether to grant or deny a license or mobility vehicle permit, the division may be guided by the opinion of experts in the fields of diagnosing and treating mental, physical, or emotional disabilities and may take into consideration any other factors that bear on the issue of public safety.
- (4) Information provided under this section relating to physical, mental, or emotional impairment is classified under Title 63G, Chapter 2, Government Records Access and Management Act.

Amended by Chapter 225, 2014 General Session

53-3-305 Notification of impaired person to the division -- Confidentiality of notification -- Rulemaking -- Penalty.

- (1) A person who is aware of a physical, mental, or emotional impairment of another person that appears to present an imminent threat to driving safety may notify the division of the impairment.
- (2) If the division determines that the notification made under Subsection (1) was made in good faith, the division may require the person who is the subject of the notification to submit to:
 - (a) one or more medical reports under Subsection 53-3-304(1);
 - (b) a physical and mental fitness test under Section 53-3-206;
 - (c) the knowledge test required by the division; or
 - (d) the skills test approved by the division.
- (3)
 - (a) A person making a notification under Subsection (1) may request that the notification be confidential.
 - (b) If requested by the person notifying the division, the notification provided under this section relating to a physical, mental, or emotional impairment is classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act, and the identity of the person notifying the division may not be disclosed by the division.
 - (c) The division may not accept an anonymous notification under this section.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing procedures for making a protected notification under this section to ensure that the notification is made in good faith.
- (5) A person who makes a notification with the intent to annoy, intimidate, or harass the person that is the subject of the notification is guilty of an infraction.

Amended by Chapter 303, 2016 General Session