

DRIVER LICENSE REPORTING

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Millie M. Peterson

This act modifies the Public Safety Code relating to the reporting process for impaired drivers. This act provides anonymity for reports and provides criminal penalties for false reports.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

53-3-303, as last amended by Chapters 242 and 243, Laws of Utah 1996

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

Section 1. Section **53-3-303** is amended to read:

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.



28 (3) In reviewing individual cases, a panel acting with the authority of the board consists
29 of at least two members, of which at least one is a regular board member.

30 (4) The director of the division or his designee serves as secretary to the board and its
31 panels.

32 (5) Members of the board and expert panel members nominated by them shall be health
33 care professionals.

34 (6) (a) (i) Members who are not government employees shall receive no compensation
35 or benefits for their services, but may receive per diem and expenses incurred in the performance
36 of the member's official duties at the rates established by the Division of Finance under Sections
37 63A-3-106 and 63A-3-107.

38 (ii) Members may decline to receive per diem and expenses for their service.

39 (b) (i) State government officer and employee members who do not receive salary, per
40 diem, or expenses from their agency for their service may receive per diem and expenses incurred
41 in the performance of their official duties from the board at the rates established by the Division
42 of Finance under Sections 63A-3-106 and 63A-3-107.

43 (ii) State government officer and employee members may decline to receive per diem and
44 expenses for their service.

45 (7) The board shall meet from time to time when called by the director of the division.

46 (8) (a) The board shall recommend written guidelines and standards for determining the
47 physical, mental, and emotional capabilities of applicants for licenses and for licensees.

48 (b) The guidelines and standards are applicable to all Utah licensees and for all individuals
49 who hold learner permits and are participating in driving activities in all forms of driver education.

50 (c) The guidelines and standards shall be published by the division.

51 (9) (a) If the division has reason to believe that an applicant or licensee is an impaired
52 person, it may:

53 [~~(a)~~] (i) act upon the matter based upon the published guidelines and standards; or

54 [~~(b)~~] (ii) convene a panel to consider the matter and submit written findings and a
55 recommendation[~~;~~the].

56 (b) The division shall consider the recommendation submitted under Subsection (9)(a)(ii)
57 along with other evidence in determining whether a license should be suspended, revoked, denied,
58 disqualified, canceled, or restricted.

59 (10) (a) If the division has acted under Subsection (9) to suspend, revoke, deny, disqualify,
60 cancel, or restrict the driving privilege without the convening of a panel, the affected applicant or
61 licensee may within ten days of receiving notice of the action request in writing a review of the
62 division's action by a panel.

63 (b) The panel shall review the matters and make written findings and conclusions.

64 (c) The division shall affirm or modify its previous action.

65 (11) (a) Actions of the division are subject to judicial review as provided in this part.

66 (b) The guidelines, standards, findings, conclusions, and recommendations of the board
67 or of a panel are admissible as evidence in any judicial review.

68 (12) Members of the board and its panels incur no liability for recommendations, findings,
69 conclusions, or for other acts performed in good faith and incidental to membership on the board
70 or a panel.

71 (13) The division shall provide forms for the use of health care professionals in depicting
72 the medical history of any physical, mental, or emotional impairment affecting the applicant's or
73 licensee's ability to drive a motor vehicle.

74 (14) (a) (i) ~~[Individuals]~~ A person who ~~[apply]~~ applies for or ~~[hold]~~ holds a license and
75 ~~[have, or develop, or suspect that they have]~~ who has, develops, or suspects that he has developed
76 a physical, mental, or emotional impairment that may affect driving safety ~~[are]~~ is responsible for
77 reporting ~~[this]~~ the condition to the division or its agent.

78 (ii) If there is uncertainty, the ~~[individual is expected to]~~ person shall seek competent
79 medical evaluation and advice as to the significance of the impairment as it relates to driving
80 safety, and ~~[to]~~ shall refrain from driving until a clarification is made.

81 (b) ~~[Health]~~ A health care ~~[professionals]~~ professional who ~~[care]~~ cares for ~~[patients]~~ a
82 patient with physical, mental, or emotional impairments that may affect ~~[their]~~ the patient's driving
83 safety, whether defined by published guidelines and standards or not, ~~[are]~~ is responsible for
84 making available to ~~[their patients]~~ the patient without reservation ~~[their]~~ the health care
85 professional's recommendations and appropriate information related to driving safety and
86 responsibilities.

87 ~~[(c)]~~ (15) (a) A health care professional or other person ~~[who becomes aware]~~ may make
88 a report to the division:

89 (i) of a physical, mental, or emotional impairment that appears to present an imminent

90 threat to driving safety [and reports this information to the division in good faith has immunity
91 from any damages claimed as a result of making the report.];

92 (ii) that is based upon physical evidence, the personal observations of the reporting person,
93 or a police investigation; and

94 (iii) on a division form that provides notice of the criminal penalty for a false report and
95 that is signed by the reporting person.

96 (b) A person who makes a report under this Subsection (15) in good faith shall have:

97 (i) immunity from any damages claimed as a result of making the report; and

98 (ii) anonymity protected by the division and the board.

99 § [(c) The division or the board shall release the name of the person making a report under

100 this Subsection (15) upon a court order.] (c) A REPORT FILED WITH THE DIVISION UNDER THIS

100a SUBSECTION (15) SHALL BE A PROTECTED RECORD AS PROVIDED IN TITLE 63, CHAPTER 2,

100b GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACT. §

101 (d) A person who makes a false report under this Subsection (15) is guilty of a class B
102 misdemeanor.

Legislative Review Note
as of 12-5-00 2:34 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel