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DRIVER LICENSE AND COMMERCIAL DRIVER LICENSE AMENDMENTS

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: DeMar Bud Bowman

LONG TITLE

General Description:

This bill modifies the Uniform Driver License Act to amend certain commercial driver license provisions.

Highlighted Provisions:

This bill:

- adds operating or being in actual physical control of a motor vehicle while the person's driving privilege is suspended due to an alcohol related offense to the offenses for which the Driver License Division shall immediately take action on a driver license;
- provides that it is a class B misdemeanor for a person who drives a motor vehicle while the person's driving privilege is denied or suspended as a result of not obtaining a conditional driver license;
- clarifies that the look back period for a no alcohol conditional license issued to a person who has a qualifying conviction is from the date of arrest for the offense not the date of the conviction;
- defines imminent hazard and allows the Driver License Division to suspend, without a hearing, the CDL of a driver who poses an imminent hazard;
- adds driving a commercial motor vehicle without the proper CDL license and endorsements or possession of proper license certificate to the definitions of serious traffic offenses;

28 ▸ allows a defense to a charge of not having a license certificate in the driver's
29 immediate possession while operating a commercial vehicle if the person charged
30 produces in court a CDL or CDIP license certificate issued to the person and valid
31 at the time of the citation or arrest;
32 ▸ allows a certified CDL examiner to accompany a CDIP holder who is operating a
33 commercial motor vehicle for the purpose of a CDL examination;
34 ▸ requires an applicant for a CDL or a CDIP to provide a complete list of all states in
35 which the applicant was issued a driver license in the previous ten years;
36 ▸ requires a person who holds a hazardous materials endorsement on a CDL to meet
37 the security threat assessment standards of the federal Transportation Security
38 Administration;
39 ▸ amends CDL provisions to allow certain offenses committed while operating any
40 motor vehicle instead of only a commercial vehicle to disqualify the license of a
41 CDL holder;
42 ▸ adds operating a commercial motor vehicle in a negligent manner causing the death
43 of another to the list of first offenses for which a CDL is disqualified for not less
44 than one year;
45 ▸ allows the division to immediately suspend or disqualify the CDL of a driver
46 without a hearing or receiving a record of the driver's conviction when the division
47 has reason to believe that there was cheating on any part of a CDL examination;
48 ▸ requires a court to notify the Driver License Division of a person's conviction for
49 discharging a firearm from a vehicle; and
50 ▸ makes technical changes.
51 **Monies Appropriated in this Bill:**
52 None
53 **Other Special Clauses:**
54 **Ĥ→ [~~None~~] <u>This bill takes effect on July 1, 2005.</u> ←Ĥ**
55 **Utah Code Sections Affected:**
56 AMENDS:
57 **53-3-220**, as last amended by Chapters 161 and 205, Laws of Utah 2004
58 **53-3-227**, as last amended by Chapter 205, Laws of Utah 2004

59 **53-3-232**, as last amended by Chapter 161, Laws of Utah 2004
60 **53-3-233**, as last amended by Chapter 161, Laws of Utah 2004
61 **53-3-402**, as last amended by Chapter 131, Laws of Utah 2003
62 **53-3-404**, as renumbered and amended by Chapter 234, Laws of Utah 1993
63 **53-3-408**, as last amended by Chapter 85, Laws of Utah 2001
64 **53-3-410**, as renumbered and amended by Chapter 234, Laws of Utah 1993
65 **53-3-412**, as renumbered and amended by Chapter 234, Laws of Utah 1993
66 **53-3-413**, as last amended by Chapter 85, Laws of Utah 2001
67 **53-3-414**, as last amended by Chapter 39, Laws of Utah 2001
68 **76-10-508**, as last amended by Chapter 214, Laws of Utah 2000
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70 *Be it enacted by the Legislature of the state of Utah:*
71 Section 1. Section **53-3-220** is amended to read:
72 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**
73 **disqualification of license -- Offense requiring an extension of period -- Hearing --**
74 **Limited driving privileges.**
75 (1) (a) The division shall immediately revoke or, when this chapter or Title 41, Chapter
76 6, Traffic Rules and Regulations, specifically provides for denial, suspension, or
77 disqualification, the division shall deny, suspend, or disqualify the license of a person upon
78 receiving a record of the person's conviction for any of the following offenses:
79 (i) manslaughter or negligent homicide resulting from driving a motor vehicle, or
80 automobile homicide under Section 76-5-207;
81 (ii) driving or being in actual physical control of a motor vehicle while under the
82 influence of alcohol, any drug, or combination of them to a degree that renders the person
83 incapable of safely driving a motor vehicle as prohibited in Section 41-6-44 or as prohibited in
84 an ordinance that complies with the requirements of Subsection 41-6-43(1);
85 (iii) driving or being in actual physical control of a motor vehicle while having a blood
86 or breath alcohol content prohibited in Section 41-6-44 or as prohibited in an ordinance that
87 complies with the requirements of Subsection 41-6-43(1);
88 (iv) perjury or the making of a false affidavit to the division under this chapter, Title
89 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or

90 regulating driving on highways;
91 (v) any felony under the motor vehicle laws of this state;
92 (vi) any other felony in which a motor vehicle is used to facilitate the offense;
93 (vii) failure to stop and render aid as required under the laws of this state if a motor
94 vehicle accident results in the death or personal injury of another;
95 (viii) two charges of reckless driving committed within a period of 12 months; but if
96 upon a first conviction of reckless driving the judge or justice recommends suspension of the
97 convicted person's license, the division may after a hearing suspend the license for a period of
98 three months;
99 (ix) failure to bring a motor vehicle to a stop at the command of a peace officer as
100 required in Section 41-6-13.5;
101 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that
102 requires disqualification;
103 (xi) discharging or allowing the discharge of a firearm from a vehicle in violation of
104 Subsection 76-10-508(2);
105 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or
106 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);
107 (xiii) operating or being in actual physical control of a motor vehicle while having any
108 measurable controlled substance or metabolite of a controlled substance in the person's body in
109 violation of Section 41-6-44.6; [~~and~~]
110 (xiv) operating or being in actual physical control of a motor vehicle while having any
111 alcohol in the person's body in violation of Section 53-3-232[~~.~~]; and
112 (xv) operating or being in actual physical control of a motor vehicle in violation of
113 Subsection 53-3-227(4) **Ĥ→ (a)(i)(B) ←Ĥ** .
114 (b) The division shall immediately revoke the license of a person upon receiving a
115 record of an adjudication under Title 78, Chapter 3a, Juvenile Court Act of 1996, for any of the
116 following offenses:
117 (i) discharging or allowing the discharge of a firearm from a vehicle in violation of
118 Subsection 76-10-508(2); and
119 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or
120 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

121 (c) Except when action is taken under Section 53-3-219 for the same offense, the
122 division shall immediately suspend for six months the license of a person upon receiving a
123 record of conviction for any of the following offenses:
124 (i) any violation of:
125 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
126 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
127 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;
128 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or
129 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or
130 (ii) any criminal offense that prohibits:
131 (A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance
132 that is prohibited under the acts described in Subsection (1)(c)(i); or
133 (B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or
134 transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).
135 (2) [~~(a)~~] The division shall extend the period of the first denial, suspension, revocation,
136 or disqualification for an additional like period, to a maximum of one year for each subsequent
137 occurrence, upon receiving:
138 [~~(i)~~] (a) a record of the conviction of any person on a charge of driving a motor vehicle
139 while the person's license is denied, suspended, revoked, or disqualified;
140 [~~(ii)~~] (b) a record of a conviction of the person for any violation of the motor vehicle
141 law in which the person was involved as a driver;
142 [~~(iii)~~] (c) a report of an arrest of the person for any violation of the motor vehicle law in
143 which the person was involved as a driver; or
144 [~~(iv)~~] (d) a report of an accident in which the person was involved as a driver.
145 [~~(b) For a violation of Subsection 53-3-227(4), the division shall extend the period of~~
146 ~~the first suspension, revocation, or disqualification for an additional one-year period.~~]
147 (3) When the division receives a report under Subsection (2)[~~(a)(iii)~~](c) or [~~(iv)~~] (d)
148 that a person is driving while the person's license is denied, suspended, disqualified, or
149 revoked, the person is entitled to a hearing regarding the extension of the time of denial,
150 suspension, disqualification, or revocation originally imposed under Section 53-3-221.
151 (4) (a) The division may extend to a person the limited privilege of driving a motor

152 vehicle to and from the person's place of employment or within other specified limits on
153 recommendation of the trial judge in any case where a person is convicted of any of the
154 offenses referred to in Subsections (1) and (2) except:
155 (i) automobile homicide under Subsection (1)(a)(i);
156 (ii) those offenses referred to in Subsections (1) (a)(ii), (a)(iii), (a)(xi), (a)(xii), (a)(xiii),
157 (1)(b), and (1)(c); and
158 (iii) those offenses referred to in Subsection (2) when the original denial, suspension,
159 revocation, or disqualification was imposed because of a violation of Section 41-6-44, Section
160 41-6-44.6, a local ordinance which complies with the requirements of Subsection 41-6-43(1),
161 Section 41-6-44.10, or Section 76-5-207, or a criminal prohibition that the person was charged
162 with violating as a result of a plea bargain after having been originally charged with violating
163 one or more of these sections or ordinances.
164 (b) This discretionary privilege is limited to when undue hardship would result from a
165 failure to grant the privilege and may be granted only once to any individual during any single
166 period of denial, suspension, revocation, or disqualification, or extension of that denial,
167 suspension, revocation, or disqualification.
168 (c) A limited CDL may not be granted to an individual disqualified under Part 4,
169 Uniform Commercial Driver License Act, or whose license has been revoked, suspended,
170 cancelled, or denied under this chapter.
171 Section 2. Section **53-3-227** is amended to read:
172 **53-3-227. Driving a motor vehicle prohibited while driving privilege denied,**
173 **suspended, disqualified, or revoked -- Penalties.**
174 (1) A person whose driving privilege has been denied, suspended, disqualified, or
175 revoked under this chapter or under the laws of the state in which the person's driving privilege
176 was granted and who drives any motor vehicle upon the highways of this state while that
177 driving privilege is denied, suspended, disqualified, or revoked shall be punished as provided
178 in this section.
179 (2) A person convicted of a violation of Subsection (1), other than a violation specified
180 in Subsection (3) or (4), is guilty of a class C misdemeanor.
181 (3) (a) A person is guilty of a class B misdemeanor if the person's conviction under
182 Subsection (1) is based on the person driving a motor vehicle while the person's driving

183 privilege is suspended, disqualified, or revoked for:
184 (i) a refusal to submit to a chemical test under Section 41-6-44.10;
185 (ii) a violation of Section 41-6-44;
186 (iii) a violation of a local ordinance that complies with the requirements of Section
187 41-6-43;
188 (iv) a violation of Section 41-6-44.6;
189 (v) a violation of Section 76-5-207;
190 (vi) a criminal action that the person plead guilty to as a result of a plea bargain after
191 having been originally charged with violating one or more of the sections or ordinances under
192 this Subsection (3);
193 (vii) a revocation or suspension which has been extended under Subsection
194 53-3-220(2); or
195 (viii) where disqualification is the result of driving a commercial motor vehicle while
196 the person's CDL is disqualified, suspended, canceled, or revoked under Subsection
197 53-3-414(1).
198 (b) A person is guilty of a class B misdemeanor if the person's conviction under
199 Subsection (1) is based on the person driving a motor vehicle while the person's driving
200 privilege is suspended, disqualified, or revoked by any state, the United States, or any district,
201 possession, or territory of the United States for violations corresponding to the violations listed
202 in Subsections (3)(a)(i) through (viii).
203 (c) A fine imposed under this Subsection (3) shall be at least the maximum fine for a
204 class C misdemeanor under Section 76-3-301.
205 (4) (a) A person is guilty of a class B misdemeanor if:
206 (i) (A) the person's conviction under Subsection (1) is based on the person driving a
207 motor vehicle while the person's driving privilege is suspended, disqualified, or revoked for:
208 [~~(A)~~] (I) any violations listed in Subsections (3)(a)(i) through (vi); or
209 [~~(B)~~] (II) a violation listed in Subsection (3)(a)(vii) if the original revocation or
210 suspension was based on any violations listed in Subsections (3)(a)(i) through (vi); [~~and~~] or
211 (B) the person's conviction under Subsection (1) is based on the person driving a motor
212 vehicle while the person's driving privilege is denied or suspended as a result of not obtaining a
213 conditional driver license under Section 53-3-232; and

214 (ii) the person had any alcohol in the person's body at the time of the violation under
215 Subsection (1).
216 (b) A person is guilty of a class B misdemeanor if:
217 (i) the person's conviction under Subsection (1) is based on the person driving a motor
218 vehicle while the person's driving privilege is suspended, disqualified, or revoked by any state,
219 the United States, or any district, possession, or territory of the United States for violations
220 corresponding to:
221 (A) the violations listed in Subsections (3)(a)(i) through (vi); or
222 (B) a violation listed in Subsection (3)(a)(vii) if the original revocation or suspension
223 was based on any violation corresponding to the violations listed in Subsections (3)(a)(i)
224 through (vi); and
225 (ii) the person had any alcohol in the person's body at the time of the violation under
226 Subsection (1).
227 (c) (i) As part of any sentence imposed for a violation of this Subsection (4), the court
228 shall order:
229 (A) a jail sentence of not less than 48 consecutive hours;
230 (B) a compensatory-service work program for not less than 48 hours; or
231 (C) home confinement through the use of electronic monitoring in accordance with
232 Subsection 41-6-44(13).
233 (ii) In addition to the penalties under Subsection (4)(c)(i), the court shall impose a fine
234 of not less than $750.
235 Section 3. Section **53-3-232** is amended to read:
236 **53-3-232. Conditional license -- May not operate a vehicle or motorboat with**
237 **alcohol in body penalty.**
238 (1) As used in this section, "qualifying conviction" means:
239 (a) a conviction of a violation of Section 41-6-44, Section 41-6-44.6, a local ordinance
240 which complies with the requirements of Subsection 41-6-43(1), Section 76-5-207, or of
241 alcohol-related reckless driving as described under Subsection 41-6-44(9);
242 (b) a revocation under Section 41-6-44.10 if the revocation is not based on the same
243 arrest as a conviction under Subsection (1)(a); or
244 (c) a violation of Subsection (3).

245 (2) The division may only issue, reinstate, or renew a driver license in the form of a no
246 alcohol conditional license to a person who has a qualifying conviction for a period of:
247 (a) two years after issuance of a Utah driver license or permit following a first
248 qualifying conviction [~~that~~] for an offense, the arrest for which occurred within the previous ten
249 years [~~from the date of arrest~~]; and
250 (b) ten years after issuance of a Utah driver license or permit following a second or
251 subsequent qualifying conviction [~~that~~] for an offense, the arrest for which occurred within the
252 previous ten years [~~from the date of arrest~~].
253 (3) A no alcohol conditional license shall be issued on the condition that the person
254 may not operate or be in actual physical control of a vehicle or motorboat in this state with any
255 alcohol in the person's body.
256 (4) It is a class B misdemeanor for a person who has been issued a no alcohol
257 conditional license to operate or be in actual physical control of a vehicle or motorboat in this
258 state in violation of Subsection (3).
259 Section 4. Section **53-3-233** is amended to read:
260 **53-3-233. Coded licenses.**
261 (1) As used in this section:
262 (a) "Qualifying conviction" has the same meaning provided in Section 53-3-232.
263 (b) "Qualifying conviction coded license" means a driver license with information
264 coded on the driver license indicating the person has a qualifying conviction.
265 (2) (a) The division may not issue, reinstate, or renew the driver license of a person
266 who has a qualifying conviction for an offense [~~that~~], the arrest for which occurred within the
267 previous ten years [~~from the date of arrest~~], unless the person's driver license is a qualifying
268 conviction coded license.
269 (b) (i) If the division receives a notice of a qualifying conviction for a person with a
270 valid driver license, that does not require a driver license withdrawal, the division shall notify
271 the person that the person has ten calendar days to apply to the division for a qualifying
272 conviction coded license.
273 (ii) If the person fails to apply within ten days, the division shall suspend the person's
274 driver license. The suspension shall remain effective until the person applies to the division for
275 a qualifying conviction coded license.

276 Section 5. Section **53-3-402** is amended to read:
277 **53-3-402. Definitions.**
278 As used in this part:
279 (1) "Alcohol" means any substance containing any form of alcohol, including ethanol,
280 methanol, propanol, and isopropanol.
281 (2) "Alcohol concentration" means the number of grams of alcohol per:
282 (a) 100 milliliters of blood;
283 (b) 210 liters of breath; or
284 (c) 67 milliliters of urine.
285 (3) "Commercial driver instruction permit" or "CDIP" means a permit issued under
286 Section 53-3-408.
287 (4) "Commercial driver license information system" or "CDLIS" means the
288 information system established under Title XII, Pub. L. 99-570, the Commercial Motor Vehicle
289 Safety Act of 1986, as a clearinghouse for information related to the licensing and
290 identification of commercial motor vehicle drivers.
291 (5) "Controlled substance" means any substance so classified under Section 102(6) of
292 the Controlled Substance Act, 21 U.S.C. 802(6), and includes all substances listed on the
293 current Schedules I through V of 21 C.F.R., Part 1308 as they may be revised from time to
294 time.
295 (6) "Employee" means any driver of a commercial motor vehicle, including:
296 (a) full-time, regularly employed drivers;
297 (b) casual, intermittent, or occasional drivers;
298 (c) leased drivers; and
299 (d) independent, owner-operator contractors while in the course of driving a
300 commercial motor vehicle who are either directly employed by or under lease to an employer.
301 (7) "Employer" means any individual or person including the United States, a state, or
302 a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns an
303 individual to drive a commercial motor vehicle.
304 (8) "Felony" means any offense under state or federal law that is punishable by death or
305 imprisonment for a term of more than one year.
306 (9) "Foreign jurisdiction" means any jurisdiction other than the United States or a state

307 of the United States.
308 (10) "Gross vehicle weight rating" or "GVWR" means the value specified by the
309 manufacturer as the maximum loaded weight of a single vehicle or GVWR of a combination or
310 articulated vehicle, and includes the GVWR of the power unit plus the total weight of all towed
311 units and the loads on those units.
312 (11) "Hazardous material" has the same meaning as defined under 49 U.S.C. Sec. 5101
313 et seq., Hazardous Materials Transportation Act.
314 (12) "Imminent hazard" means the existence of a condition, practice, or violation that
315 presents a substantial likelihood that death, serious illness, severe personal injury, or a
316 substantial endangerment to health, property, or the environment is expected to occur
317 immediately, or before the condition, practice, or violation can be abated.
318 [~~(12)~~] (13) "NDR" means the National Driver Register.
319 [~~(13)~~] (14) "Nonresident CDL" means a commercial driver license issued by a state to
320 an individual who resides in a foreign jurisdiction.
321 [~~(14)~~] (15) "Out-of-service order" means a temporary prohibition against driving a
322 commercial motor vehicle.
323 [~~(15)~~] (16) "Port-of-entry agent" has the same meaning as provided in Section
324 72-1-102.
325 [~~(16)~~] (17) "Serious traffic violation" means a conviction of any of the following:
326 (a) speeding 15 or more miles per hour above the posted speed limit;
327 (b) reckless driving as defined by state or local law;
328 (c) improper or erratic traffic lane changes;
329 (d) following the vehicle ahead too closely;
330 (e) any other motor vehicle traffic law which arises in connection with a fatal traffic
331 accident;
332 (f) operating a commercial motor vehicle without a CDL or a CDIP;
333 (g) operating a commercial motor vehicle without the proper class of CDL or CDL
334 endorsement for the type of vehicle group being operated or for the passengers or cargo being
335 transported;
336 (h) operating a commercial motor vehicle without a CDL or CDIP license certificate in
337 the driver's possession in violation of Section 53-3-404; or

338 [~~(f)~~] (i) all other violations under Section 53-3-220 for which mandatory suspension or
339 revocation are required.
340 [~~(17)~~] (18) "State" means a state of the United States, the District of Columbia, any
341 province or territory of Canada, or Mexico.
342 [~~(18)~~] (19) "United States" means the 50 states and the District of Columbia.
343 Section 6. Section **53-3-404** is amended to read:
344 **53-3-404. Requirements to drive commercial motor vehicle.**
345 (1) A person may not drive a commercial motor vehicle, unless the person has been
346 issued and is in immediate possession of:
347 (a) a CDL license certificate valid for the commercial motor vehicle [~~he~~] the person is
348 driving; or
349 (b) a valid CDIP[~~, and is accompanied by a person holding a valid CDL for the~~
350 ~~commercial motor vehicle being driven.~~] license certificate in accordance with Section
351 53-3-408.
352 (2) (a) A licensee shall display a CDL or CDIP license certificate upon demand of a
353 justice Ĥ→ [~~of the peace~~] **court judge** ←Ĥ , a peace officer, Ĥ→ **a special function officer, a**
353a **port-of-entry officer,** ←Ĥ or a Ĥ→ [~~field deputy or inspector~~] **designee** ←Ĥ of the division.
354 (b) It is a defense to a charge under this section that the person charged produces in
355 court a CDL or CDIP license certificate that is issued to the person and valid at the time of the
356 citation or arrest.
357 [~~(2)~~] (3) A person may not drive a commercial motor vehicle if [~~his~~] the person's
358 privilege to drive a commercial motor vehicle is:
359 (a) suspended, revoked, or canceled;
360 (b) subject to a disqualification; or
361 (c) subject to an out-of-service order.
362 Section 7. Section **53-3-408** is amended to read:
363 **53-3-408. Qualifications for commercial driver instruction permit.**
364 (1) A CDIP may be issued to a person who:
365 (a) holds a valid license;
366 (b) has at least one year of driving experience; and
367 (c) has passed the vision and knowledge test for the class of license for which he is
368 applying.

369 (2) A CDIP may be:
370 (a) issued only for a period not to exceed six months; and
371 (b) renewed or issued again only once within a two-year period.
372 (3) The holder of a CDIP may drive a commercial motor vehicle on a highway only
373 when accompanied by a person who:
374 (a) (i) holds a CDL valid for the type of commercial motor vehicle driven; [~~and~~] or
375 (ii) is certified by the division to administer driver licensing examinations to CDL
376 applicants; and
377 (b) occupies a seat beside the individual for the purpose of:
378 (i) giving the driver instruction regarding the driving of the commercial motor
379 vehicle[~~.~~]; or
380 (ii) administering a driver licensing examination to a CDL applicant.
381 (4) A CDL or CDIP may not be issued to a person:
382 (a) subject to disqualification from driving a commercial motor vehicle; or
383 (b) whose license is suspended, revoked, or canceled in any state.
384 (5) A CDL or CDIP may not be issued to a person until the person has surrendered all
385 license certificates [~~he~~] the person holds to the division for cancellation.
386 Section 8. Section **53-3-410** is amended to read:
387 **53-3-410. Applicant information required for CDIP and CDL -- State resident to**
388 **have state CDL.**
389 (1) The application for a CDL or CDIP shall include the following information
390 regarding the applicant:
391 (a) full legal name and current mailing and Ĥ→ **Utah** ←Ĥ residential address;
392 (b) physical description, including sex, height, weight, and eye color;
393 (c) date of birth;
394 (d) Social Security number, unless the application is for a nonresident license; [~~and (e)~~
395 ~~his~~]
396 (e) a complete list of all states in which the applicant was issued a driver license in the
397 previous ten years; and
398 (f) the applicant's signature.
399 (2) An application under this section shall also include all certifications required by 49

400 C.F.R., Part 383.71.
401 (3) When the holder of a license under this part changes [~~his~~] the holder's name,
402 mailing address, or residence, [~~he~~] the holder shall make application for a duplicate license
403 within 30 days of the change.
404 (4) A person who has been a resident of this state for 30 consecutive days may not
405 drive a commercial motor vehicle under the authority of a commercial driver license issued by
406 another jurisdiction.
407 Section 9. Section **53-3-412** is amended to read:
408 **53-3-412. CDL classifications, endorsements, and restrictions.**
409 A CDL may be granted with the following classifications, endorsements, and
410 restrictions:
411 (1) Classifications:
412 (a) Class A: any combination of vehicles with a GVWR of 26,001 pounds or more, if
413 the GVWR of the one or more vehicles being towed is in excess of 10,000 pounds;
414 (b) Class B: any single motor vehicle with a GVWR of 26,001 pounds or more,
415 including that motor vehicle when towing a vehicle with a GVWR of 10,000 pounds or less;
416 and
417 (c) Class C: any single motor vehicle with a GVWR of less than 26,001 pounds or that
418 motor vehicle when towing a vehicle with a GVWR of 10,000 pounds or less when the vehicle
419 is designed or used:
420 (i) to transport more than 15 passengers, including the driver;
421 (ii) as a school bus, and weighing less than 26,001 pounds GVWR; or
422 (iii) to transport hazardous materials that requires the vehicle to be placarded under 49
423 C.F.R., Part 172, Subpart F.
424 (2) Endorsements [~~and restrictions~~]:
425 (a) "H" authorizes the driver to drive a commercial motor vehicle transporting
426 hazardous materials.
427 [~~(b) "K" restricts the driver to driving intrastate any commercial motor vehicle as~~
428 ~~defined by Title 49, C.F.R., Parts 383 and 390.~~]
429 [~~(c) "L" restricts the driver to drive a commercial motor vehicle not equipped with air~~
430 ~~brakes.~~]

431 [~~(d)~~] (b) "N" authorizes the driver to drive a tank vehicle.
432 [~~(e)~~] (c) "P" authorizes the driver to drive a motor vehicle carrying more than 15
433 passengers including the driver.
434 [~~(f)~~] (d) "S" authorizes the driver to drive a school bus or a motor vehicle carrying
435 more than 15 passengers including the driver.
436 [~~(g)~~] (e) "T" authorizes the driver to drive a commercial motor vehicle with a double or
437 triple trailer.
438 [~~(h)~~] (f) "X" authorizes the driver to drive a tank vehicle and transport hazardous
439 materials.
440 (3) Restrictions:
441 (a) "K" restricts the driver to driving intrastate only any commercial motor vehicle as
442 defined by Title 49, C.F.R., Parts 383 and 390.
443 (b) "L" restricts the driver to driving a commercial motor vehicle not equipped with air
444 brakes.
445 (c) "J" provides for other CDL restrictions.
446 Section 10. Section **53-3-413** is amended to read:
447 **53-3-413. Issuance of CDL by division -- Driving record -- Expiration date --**
448 **Renewal -- Hazardous materials provision.**
449 (1) Before the division may grant a CDL, the division shall obtain the driving record
450 information regarding the applicant through the CDLIS, the NDR, and from each state where
451 the applicant has been licensed.
452 (2) Within ten days after issuing a CDL, the division shall notify the CDLIS and
453 provide all information required to ensure identification of the CDL holder.
454 (3) The expiration date for a CDL[~~: (a) issued before May 1, 1992, is the birth date of~~
455 ~~the holder in the fourth year following the year of issuance of the CDL; and (b) issued after~~
456 ~~April 30, 1992,~~] is the birth date of the holder in the fifth year following the year of issuance of
457 the CDL.
458 (4) [~~(a)~~] The applicant for a renewal of a CDL shall complete the application form
459 required by Section 53-3-410 and provide updated information and required certification.
460 (5) (a) The division may not issue a hazardous materials endorsement on a CDL unless
461 the applicant meets the security threat assessment standards of the federal Transportation

462 Security Administration.
463 (b) The division shall revoke the hazardous materials endorsement on a CDL upon
464 receiving notice from the federal Transportation Security Agency that the person holding a
465 hazardous materials endorsement does not meet Transportation Security Administration
466 security threat assessment standards.
467 [~~(b)~~] (c) To retain a hazardous materials endorsement upon CDL renewal, the applicant
468 must take and pass the knowledge test for hazardous materials endorsement in addition to any
469 other testing required by the division.
470 Section 11. Section **53-3-414** is amended to read:
471 **53-3-414. CDL disqualification or suspension -- Grounds and duration --**
472 **Procedure.**
473 (1) A person who holds or is required to hold a CDL is disqualified from driving a
474 commercial motor vehicle for a period of not less than one year if convicted of a first offense
475 of:
476 (a) driving a [~~commercial~~] motor vehicle while under the influence of alcohol, drugs, a
477 controlled substance, or more than one of these;
478 (b) driving a commercial motor vehicle while the concentration of alcohol in [~~his~~] the
479 person's blood, breath, or urine is .04 grams or more;
480 (c) leaving the scene of an accident involving a [~~commercial~~] motor vehicle [~~he~~] the
481 person was driving;
482 (d) using a [~~commercial~~] motor vehicle in the commission of a felony;
483 (e) refusal to submit to a test to determine the concentration of alcohol in [~~his~~] the
484 person's blood, breath, or urine; [~~or~~]
485 (f) driving a commercial motor vehicle while the person's commercial driver license is
486 disqualified, suspended, canceled, or revoked[~~.~~]; or
487 (g) operating a commercial motor vehicle in a negligent manner causing the death of
488 another including the offenses of automobile homicide under Section 76-5-207, manslaughter
489 under Section 76-5-205, or negligent homicide under Section 76-5-206.
490 (2) If any of the violations under Subsection (1) occur while the driver is transporting a
491 hazardous material required to be placarded, the driver is disqualified for not less than three
492 years.

493 (3) (a) Except as provided under Subsection (4), a driver of a [~~commercial~~] motor
494 vehicle who holds or is required to hold a CDL is disqualified for life from driving a
495 commercial motor vehicle if convicted of two or more of any of the offenses under Subsection
496 (1) arising from two or more separate incidents.
497 (b) Subsection (3)(a) applies only to those offenses committed after July 1, 1989.
498 (4) (a) Any driver disqualified for life from driving a commercial motor vehicle under
499 this section[~~, who~~] may apply to the division for reinstatement of the driver's CDL if the driver:
500 (i) has both voluntarily enrolled in and successfully completed an appropriate
501 rehabilitation program that:
502 (A) meets the standards of the division[~~, may apply to the division for reinstatement of~~
503 ~~his CDL. (b) The applicant is not eligible for reinstatement until he~~]; and
504 (B) complies with 49 C.F.R. Part 383.51;
505 (ii) has served a minimum disqualification period of ten years; and
506 (iii) has fully met the standards for reinstatement of commercial motor vehicle driving
507 privileges established by rule of the division.
508 [~~(c)~~] (b) If a reinstated driver is subsequently convicted of another disqualifying
509 offense under this section, [~~he~~] the driver is permanently disqualified for life and is ineligible to
510 again apply for a reduction of the lifetime disqualification.
511 (5) A driver of a [~~commercial~~] motor vehicle who holds or is required to hold a CDL is
512 disqualified for life from driving a commercial motor vehicle if [~~he~~] the driver uses a
513 [~~commercial~~] motor vehicle in the commission of any felony involving the manufacturing,
514 distributing, or dispensing of a controlled substance, or possession with intent to manufacture,
515 distribute, or dispense a controlled substance.
516 (6) **Ŝ→ [~~A~~] (a) Subject to Subsection (6)(b), a ←Ŝ** driver of a **Ŝ→ [~~[~~] commercial [~~]~~] ←Ŝ**
516a motor vehicle
516a who holds or is required to hold a CDL is
517 disqualified for not less than **Ŝ→ :**
517a **(ii) ←Ŝ** 60 days from driving a commercial motor vehicle if [~~he~~] the
518 driver is convicted of two serious traffic violations **Ŝ→ ; ←Ŝ** and **Ŝ→ [~~is disqualified for not less~~**
518a **~~than~~]**
518b **(ii) ←Ŝ** 120
519 days if [~~he~~] the driver is convicted of three **Ŝ→ or more ←Ŝ** serious traffic violations **Ŝ→ [~~that:~~] .**
520 **[~~(a)~~] (b) The disqualifications under Subsection (6)(a) are effective only if the serious**
520a **traffic violations:**
520b **(i) ←Ŝ** occur within three years of each other; **Ŝ→ [~~and~~**
521 **~~(b)~~] (ii) ←Ŝ** arise from separate incidents **Ŝ→ [~~[~~] ; and [~~]~~.]**
522 **[~~[(c)~~] (iii) involve the use or operation of a commercial motor vehicle. [~~]~~] ←Ŝ**
523 (7) A driver of a commercial motor vehicle who is convicted of violating an

524 out-of-service order while driving a commercial motor vehicle is disqualified from driving a
525 commercial motor vehicle for a period not less than:
526 (a) 90 days but not more than one year if the driver is convicted of a first violation;
527 (b) one year but not more than five years if, during any ten-year period, the driver is
528 convicted of two violations of out-of-service orders in separate incidents;
529 (c) three years but not more than five years if, during any ten-year period, the driver is
530 convicted of three or more violations of out-of-service orders in separate incidents;
531 (d) 180 days but not more than two years if the driver is convicted of a first violation of
532 an out-of-service order while transporting hazardous materials required to be placarded or
533 while operating a motor vehicle designed to transport 16 or more passengers, including the
534 driver; or
535 (e) three years but not more than five years if, during any ten-year period, the driver is
536 convicted of two or more violations, in separate incidents, of an out-of-service order while
537 transporting hazardous materials required to be placarded or while operating a motor vehicle
538 designed to transport 16 or more passengers, including the driver.
539 (8) A driver of a commercial motor vehicle who holds or is required to hold a CDL is
540 disqualified for not less than 60 days if the division determines, in its check of [~~his~~] the driver's
541 driver license status, application, and record prior to issuing a CDL or at any time after the
542 CDL is issued, that the driver has falsified information required to apply for a CDL in this
543 state.
544 (9) A driver of a commercial motor vehicle who is convicted of violating a
545 railroad-highway grade crossing provision under Section 41-6-97, while driving a commercial
546 motor vehicle is disqualified from driving a commercial motor vehicle for a period not less
547 than:
548 (a) 60 days if the driver is convicted of a first violation;
549 (b) 120 days if, during any three-year period, the driver is convicted of a second
550 violation in separate incidents; or
551 (c) one year if, during any three-year period, the driver is convicted of three or more
552 violations in separate incidents.
553 (10) (a) The division shall update its records and notify the CDLIS within ten days of
554 suspending, revoking, disqualifying, denying, or cancelling a CDL to reflect the action taken.

555 (b) When the division suspends, revokes, cancels, or disqualifies a nonresident CDL,
556 the division shall notify the licensing authority of the issuing state or other jurisdiction and the
557 CDLIS within ten days after the action is taken.
558 (c) When the division suspends, revokes, cancels, or disqualifies a CDL issued by this
559 state, the division shall notify the CDLIS within ten days after the action is taken.
560 (11) (a) The division may immediately suspend or disqualify the CDL of a driver
561 without a hearing or receiving a record of the driver's conviction when the division has reason
562 to believe that the:
563 (i) CDL was issued by the division through error or fraud;
564 (ii) applicant provided incorrect or incomplete information to the division; [~~or~~]
565 (iii) applicant cheated on any part of a CDL examination;
566 [~~(iii)~~] (iv) driver no longer meets the fitness standards required to obtain a CDL[~~.~~]; or
567 (v) driver poses an imminent hazard.
568 (b) Suspension of a CDL under this Subsection (11) shall be in accordance with
569 Section 53-3-221.
570 (c) If a hearing is held under Section 53-3-221, the division shall then rescind the
571 suspension order or cancel the CDL.
571a **Ŝ→ (12) (a) Subject to Subsection (12)(b), a driver of a motor vehicle who holds or is**
571b **required to hold a CDL is disqualified for not less than:**
571c **(i) 60 days from driving a commercial motor vehicle if the driver is convicted of**
571d **two serious traffic violations; and**
571e **(ii) 120 days if the driver is convicted of three or more serious traffic violations.**
571f **(b) The disqualifications under Subsection (12)(a) are effective only if the serious**
571g **traffic violations:**
571h **(i) occur within three years of each other;**
571i **(ii) arise from separate incidents; and**
571j **(iii) result in a the denial, suspension, cancellation, or revocation of the non-CDL**
571k **driving privilege from at least one of the violations. ←Ŝ**
572 Section 12. Section **76-10-508** is amended to read:
573 **76-10-508. Discharge of firearm from a vehicle, near a highway, or in direction of**
574 **any person, building, or vehicle -- Penalties.**
575 (1) (a) A person may not discharge any kind of dangerous weapon or firearm:
576 (i) from an automobile or other vehicle;
577 (ii) from, upon, or across any highway;

578 (iii) at any road signs placed upon any highways of the state;
579 (iv) at any communications equipment or property of public utilities including
580 facilities, lines, poles, or devices of transmission or distribution;
581 (v) at railroad equipment or facilities including any sign or signal;
582 (vi) within Utah State Park buildings, designated camp or picnic sites, overlooks, golf
583 courses, boat ramps, and developed beaches; or
584 (vii) without written permission to discharge the dangerous weapon from the owner or
585 person in charge of the property within 600 feet of:

586 (A) a house, dwelling, or any other building; or
587 (B) any structure in which a domestic animal is kept or fed, including a barn, poultry
588 yard, corral, feeding pen, or stockyard.
589 (b) It shall be a defense to any charge for violating this section that the person being
590 accused had actual permission of the owner or person in charge of the property at the time in
591 question.
592 (2) A violation of any provision of this section is a class B misdemeanor unless the
593 actor discharges a firearm under any of the following circumstances not amounting to criminal
594 homicide or attempted criminal homicide, in which case it is a third degree felony and the
595 convicted person shall be sentenced to an enhanced minimum term of three years in prison:
596 (a) the actor discharges a firearm in the direction of any person or persons, knowing or
597 having reason to believe that any person may be endangered;
598 (b) the actor, with intent to intimidate or harass another or with intent to damage a
599 habitable structure as defined in Subsection 76-6-101(2), discharges a firearm in the direction
600 of any building; or
601 (c) the actor, with intent to intimidate or harass another, discharges a firearm in the
602 direction of any vehicle.
603 (3) The court shall:
604 (a) notify the Driver License Division of the conviction for purposes of any revocation,
605 denial, suspension, or disqualification of a driver license under Section 53-3-220(1)(a)(xi); and
606 (b) specify in court at the time of sentencing the length of the revocation under
607 Subsection 53-3-225(1)(c).
608 [~~(3)~~] (4) This section does not apply to a person:
609 (a) who discharges any kind of firearm when that person is in lawful defense of self or
610 others; or
611 (b) who is performing official duties as provided in Sections 23-20-1.5 and 76-10-523
612 and as otherwise provided by law.
612a **Ĥ→ Section 13. Effective date.**
612b **This bill takes effect on July 1, 2005. ←Ĥ**

Legislative Review Note
as of 12-22-04 2:50 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

It is estimated that the Department of Public Safety will require $81,900 in FY 2006 and $2,500 each fiscal year thereafter from the Transportation Fund Restricted Department of Public Safety Restricted Account to implement provisions of this bill.

	FY 2006 Approp.	FY 2007 Approp.	FY 2006 Revenue	FY 2007 Revenue
Restricted Funds	$81,900	$2,500	$0	$0
TOTAL	**$81,900**	**$2,500**	**$0**	**$0**

Individual and Business Impact

No fiscal impact for those who conform to the requirements of the law.