

**DRIVER LICENSE AND COMMERCIAL
DRIVER LICENSE AMENDMENTS**

2005 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: DeMar Bud Bowman

Senate Sponsor: Mike Dmitrich

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 a proper license certificate to the definitions of serious traffic offenses;
- ▶ allows a defense to a charge of not having a license certificate in the driver's

immediate possession while operating a commercial vehicle if the person charged produces in court a CDL or CDIP license certificate issued to the person and valid at the time of the citation or arrest;

- ▶ allows a certified CDL examiner to accompany a CDIP holder who is operating a commercial motor vehicle for the purpose of a CDL examination;
- ▶ requires an applicant for a CDL or a CDIP to provide a complete list of all states in which the applicant was issued a driver license in the previous ten years;
- ▶ requires a person who holds a hazardous materials endorsement on a CDL to meet the security threat assessment standards of the federal Transportation Security

Administration;

- ▶ amends CDL provisions to allow certain offenses committed while operating any motor vehicle instead of only a commercial vehicle to disqualify the license of a CDL holder;
- ▶ adds operating a commercial motor vehicle in a negligent manner causing the death of another to the list of first offenses for which a CDL is disqualified for not less than one year;
- ▶ allows the division to immediately suspend or disqualify the CDL of a driver without a hearing or receiving a record of the driver's conviction when the division has reason to believe that there was cheating on any part of a CDL examination;
- ▶ requires a court to notify the Driver License Division of a person's conviction for discharging a firearm from a vehicle; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2005.

Utah Code Sections Affected:

AMENDS:

53-3-220, as last amended by Chapters 161 and 205, Laws of Utah 2004

53-3-227, as last amended by Chapter 205, Laws of Utah 2004

53-3-232, as last amended by Chapter 161, Laws of Utah 2004

53-3-233, as last amended by Chapter 161, Laws of Utah 2004

53-3-402, as last amended by Chapter 131, Laws of Utah 2003

53-3-404, as renumbered and amended by Chapter 234, Laws of Utah 1993

53-3-408, as last amended by Chapter 85, Laws of Utah 2001

53-3-410, as renumbered and amended by Chapter 234, Laws of Utah 1993

53-3-412, as renumbered and amended by Chapter 234, Laws of Utah 1993

53-3-413, as last amended by Chapter 85, Laws of Utah 2001

53-3-414, as last amended by Chapter 39, Laws of Utah 2001

76-10-508, as last amended by Chapter 214, Laws of Utah 2000

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

Section 1. Section **53-3-220** is amended to read:

53-3-220. Offenses requiring mandatory revocation, denial, suspension, or disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.

(1) (a) The division shall immediately revoke or, when this chapter or Title 41, Chapter 6, Traffic Rules and Regulations, specifically provides for denial, suspension, or disqualification, the division shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's conviction for any of the following offenses:

(i) manslaughter or negligent homicide resulting from driving a motor vehicle, or automobile homicide under Section 76-5-207;

(ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section 41-6-44 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6-43(1);

(iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content prohibited in Section 41-6-44 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6-43(1);

(iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;

(v) any felony under the motor vehicle laws of this state;

(vi) any other felony in which a motor vehicle is used to facilitate the offense;

(vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;

(viii) two charges of reckless driving committed within a period of 12 months; but if upon a first conviction of reckless driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

(ix) failure to bring a motor vehicle to a stop at the command of a peace officer as required in Section 41-6-13.5;

(x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;

(xi) discharging or allowing the discharge of a firearm from a vehicle in violation of Subsection 76-10-508(2);

(xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

(xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6-44.6; ~~and~~

(xiv) operating or being in actual physical control of a motor vehicle while having any alcohol in the person's body in violation of Section 53-3-232[-]; and

(xv) operating or being in actual physical control of a motor vehicle in violation of

Subsection 53-3-227(4)(a)(i)(B).

(b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under Title 78, Chapter 3a, Juvenile Court Act of 1996, for any of the following offenses:

(i) discharging or allowing the discharge of a firearm from a vehicle in violation of Subsection 76-10-508(2); and

(ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

(c) Except when action is taken under Section 53-3-219 for the same offense, the division shall immediately suspend for six months the license of a person upon receiving a record of conviction for any of the following offenses:

(i) any violation of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

(ii) any criminal offense that prohibits:

(A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsection (1)(c)(i); or

(B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).

(2) ~~(a)~~ The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:

~~(i)~~ (a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;

~~(ii)~~ (b) a record of a conviction of the person for any violation of the motor vehicle law

in which the person was involved as a driver;

~~[(iii)]~~ (c) a report of an arrest of the person for any violation of the motor vehicle law in which the person was involved as a driver; or

~~[(iv)]~~ (d) a report of an accident in which the person was involved as a driver.

~~[(b) For a violation of Subsection 53-3-227(4), the division shall extend the period of the first suspension, revocation, or disqualification for an additional one-year period.]~~

(3) When the division receives a report under Subsection (2)~~[(a)(iii)]~~(c) or ~~[(iv)]~~ (d) that a person is driving while the person's license is denied, suspended, disqualified, or revoked, the person is entitled to a hearing regarding the extension of the time of denial, suspension, disqualification, or revocation originally imposed under Section 53-3-221.

(4) (a) The division may extend to a person the limited privilege of driving a motor vehicle to and from the person's place of employment or within other specified limits on recommendation of the trial judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2) except:

(i) automobile homicide under Subsection (1)(a)(i);

(ii) those offenses referred to in Subsections (1) (a)(ii), (a)(iii), (a)(xi), (a)(xii), (a)(xiii), (1)(b), and (1)(c); and

(iii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6-44, Section 41-6-44.6, a local ordinance which complies with the requirements of Subsection 41-6-43(1), Section 41-6-44.10, or Section 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances.

(b) This discretionary privilege is limited to when undue hardship would result from a failure to grant the privilege and may be granted only once to any individual during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(c) A limited CDL may not be granted to an individual disqualified under Part 4,

Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

Section 2. Section **53-3-227** is amended to read:

53-3-227. Driving a motor vehicle prohibited while driving privilege denied, suspended, disqualified, or revoked -- Penalties.

(1) A person whose driving privilege has been denied, suspended, disqualified, or revoked under this chapter or under the laws of the state in which the person's driving privilege was granted and who drives any motor vehicle upon the highways of this state while that driving privilege is denied, suspended, disqualified, or revoked shall be punished as provided in this section.

(2) A person convicted of a violation of Subsection (1), other than a violation specified in Subsection (3) or (4), is guilty of a class C misdemeanor.

(3) (a) A person is guilty of a class B misdemeanor if the person's conviction under Subsection (1) is based on the person driving a motor vehicle while the person's driving privilege is suspended, disqualified, or revoked for:

- (i) a refusal to submit to a chemical test under Section 41-6-44.10;
 - (ii) a violation of Section 41-6-44;
 - (iii) a violation of a local ordinance that complies with the requirements of Section 41-6-43;
 - (iv) a violation of Section 41-6-44.6;
 - (v) a violation of Section 76-5-207;
 - (vi) a criminal action that the person plead guilty to as a result of a plea bargain after having been originally charged with violating one or more of the sections or ordinances under this Subsection (3);
 - (vii) a revocation or suspension which has been extended under Subsection 53-3-220(2);
- or
- (viii) where disqualification is the result of driving a commercial motor vehicle while the person's CDL is disqualified, suspended, canceled, or revoked under Subsection 53-3-414(1).

(b) A person is guilty of a class B misdemeanor if the person's conviction under Subsection (1) is based on the person driving a motor vehicle while the person's driving privilege is suspended, disqualified, or revoked by any state, the United States, or any district, possession, or territory of the United States for violations corresponding to the violations listed in Subsections (3)(a)(i) through (viii).

(c) A fine imposed under this Subsection (3) shall be at least the maximum fine for a class C misdemeanor under Section 76-3-301.

(4) (a) A person is guilty of a class B misdemeanor if:

(i) (A) the person's conviction under Subsection (1) is based on the person driving a motor vehicle while the person's driving privilege is suspended, disqualified, or revoked for:

~~[(A)]~~ (I) any violations listed in Subsections (3)(a)(i) through (vi); or

~~[(B)]~~ (II) a violation listed in Subsection (3)(a)(vii) if the original revocation or suspension was based on any violations listed in Subsections (3)(a)(i) through (vi); ~~[and]~~ or

(B) the person's conviction under Subsection (1) is based on the person driving a motor vehicle while the person's driving privilege is denied or suspended as a result of not obtaining a conditional driver license under Section 53-3-232; and

(ii) the person had any alcohol in the person's body at the time of the violation under Subsection (1).

(b) A person is guilty of a class B misdemeanor if:

(i) the person's conviction under Subsection (1) is based on the person driving a motor vehicle while the person's driving privilege is suspended, disqualified, or revoked by any state, the United States, or any district, possession, or territory of the United States for violations corresponding to:

(A) the violations listed in Subsections (3)(a)(i) through (vi); or

(B) a violation listed in Subsection (3)(a)(vii) if the original revocation or suspension was based on any violation corresponding to the violations listed in Subsections (3)(a)(i) through (vi); and

(ii) the person had any alcohol in the person's body at the time of the violation under

Subsection (1).

(c) (i) As part of any sentence imposed for a violation of this Subsection (4), the court shall order:

- (A) a jail sentence of not less than 48 consecutive hours;
- (B) a compensatory-service work program for not less than 48 hours; or
- (C) home confinement through the use of electronic monitoring in accordance with

Subsection 41-6-44(13).

(ii) In addition to the penalties under Subsection (4)(c)(i), the court shall impose a fine of not less than \$750.

Section 3. Section **53-3-232** is amended to read:

53-3-232. Conditional license -- May not operate a vehicle or motorboat with alcohol in body -- Penalty.

(1) As used in this section, "qualifying conviction" means:

(a) a conviction of a violation of Section 41-6-44, Section 41-6-44.6, a local ordinance which complies with the requirements of Subsection 41-6-43(1), Section 76-5-207, or of alcohol-related reckless driving as described under Subsection 41-6-44(9);

(b) a revocation under Section 41-6-44.10 if the revocation is not based on the same arrest as a conviction under Subsection (1)(a); or

(c) a violation of Subsection (3).

(2) The division may only issue, reinstate, or renew a driver license in the form of a no alcohol conditional license to a person who has a qualifying conviction for a period of:

(a) two years after issuance of a Utah driver license or permit following a first qualifying conviction [~~that~~] for an offense, the arrest for which occurred within the previous ten years [~~from the date of arrest~~]; and

(b) ten years after issuance of a Utah driver license or permit following a second or subsequent qualifying conviction [~~that~~] for an offense, the arrest for which occurred within the previous ten years [~~from the date of arrest~~].

(3) A no alcohol conditional license shall be issued on the condition that the person may

not operate or be in actual physical control of a vehicle or motorboat in this state with any alcohol in the person's body.

(4) It is a class B misdemeanor for a person who has been issued a no alcohol conditional license to operate or be in actual physical control of a vehicle or motorboat in this state in violation of Subsection (3).

Section 4. Section **53-3-233** is amended to read:

53-3-233. Coded licenses.

(1) As used in this section:

(a) "Qualifying conviction" has the same meaning provided in Section 53-3-232.

(b) "Qualifying conviction coded license" means a driver license with information coded on the driver license indicating the person has a qualifying conviction.

(2) (a) The division may not issue, reinstate, or renew the driver license of a person who has a qualifying conviction for an offense [~~that~~], the arrest for which occurred within the previous ten years [~~from the date of arrest~~], unless the person's driver license is a qualifying conviction coded license.

(b) (i) If the division receives a notice of a qualifying conviction for a person with a valid driver license, that does not require a driver license withdrawal, the division shall notify the person that the person has ten calendar days to apply to the division for a qualifying conviction coded license.

(ii) If the person fails to apply within ten days, the division shall suspend the person's driver license. The suspension shall remain effective until the person applies to the division for a qualifying conviction coded license.

Section 5. Section **53-3-402** is amended to read:

53-3-402. Definitions.

As used in this part:

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

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

- (a) 100 milliliters of blood;
- (b) 210 liters of breath; or
- (c) 67 milliliters of urine.

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

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

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

(6) "Employee" means any driver of a commercial motor vehicle, including:

- (a) full-time, regularly employed drivers;
- (b) casual, intermittent, or occasional drivers;
- (c) leased drivers; and

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

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

(8) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term of more than one year.

(9) "Foreign jurisdiction" means any jurisdiction other than the United States or a state of the United States.

(10) "Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the maximum loaded weight of a single vehicle or GVWR of a combination or articulated vehicle, and includes the GVWR of the power unit plus the total weight of all towed

units and the loads on those units.

(11) "Hazardous material" has the same meaning as defined under 49 U.S.C. Sec. 5101 et seq., Hazardous Materials Transportation Act.

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

~~[(12)]~~ (13) "NDR" means the National Driver Register.

~~[(13)]~~ (14) "Nonresident CDL" means a commercial driver license issued by a state to an individual who resides in a foreign jurisdiction.

~~[(14)]~~ (15) "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.

~~[(15)]~~ (16) "Port-of-entry agent" has the same meaning as provided in Section 72-1-102.

~~[(16)]~~ (17) "Serious traffic violation" means a conviction of any of the following:

- (a) speeding 15 or more miles per hour above the posted speed limit;
- (b) reckless driving as defined by state or local law;
- (c) improper or erratic traffic lane changes;
- (d) following the vehicle ahead too closely;
- (e) any other motor vehicle traffic law which arises in connection with a fatal traffic accident;

(f) operating a commercial motor vehicle without a CDL or a CDIP;

(g) operating a commercial motor vehicle without the proper class of CDL or CDL endorsement for the type of vehicle group being operated or for the passengers or cargo being transported;

(h) operating a commercial motor vehicle without a CDL or CDIP license certificate in the driver's possession in violation of Section 53-3-404; or

~~[(f)]~~ (i) all other violations under Section 53-3-220 for which mandatory suspension or revocation are required.

~~[(17)]~~ (18) "State" means a state of the United States, the District of Columbia, any province or territory of Canada, or Mexico.

~~[(18)]~~ (19) "United States" means the 50 states and the District of Columbia.

Section 6. Section **53-3-404** is amended to read:

53-3-404. Requirements to drive commercial motor vehicle.

(1) A person may not drive a commercial motor vehicle, unless the person has been issued and is in immediate possession of:

(a) a CDL license certificate valid for the commercial motor vehicle ~~[he]~~ the person is driving; or

(b) a valid CDIP~~[-, and is accompanied by a person holding a valid CDL for the commercial motor vehicle being driven.]~~ license certificate in accordance with Section 53-3-408.

(2) (a) A licensee shall display a CDL or CDIP license certificate upon demand of a justice court judge, a peace officer, a special function officer, a port-of-entry officer, or a designee of the division.

(b) It is a defense to a charge under this section that the person charged produces in court a CDL or CDIP license certificate that is issued to the person and valid at the time of the citation or arrest.

~~[(2)]~~ (3) A person may not drive a commercial motor vehicle if ~~[his]~~ the person's privilege to drive a commercial motor vehicle is:

- (a) suspended, revoked, or canceled;
- (b) subject to a disqualification; or
- (c) subject to an out-of-service order.

Section 7. Section **53-3-408** is amended to read:

53-3-408. Qualifications for commercial driver instruction permit.

(1) A CDIP may be issued to a person who:

- (a) holds a valid license;
- (b) has at least one year of driving experience; and
- (c) has passed the vision and knowledge test for the class of license for which he is

applying.

(2) A CDIP may be:

- (a) issued only for a period not to exceed six months; and
- (b) renewed or issued again only once within a two-year period.

(3) The holder of a CDIP may drive a commercial motor vehicle on a highway only when accompanied by a person who:

- (a) (i) holds a CDL valid for the type of commercial motor vehicle driven; [and] or
- (ii) is certified by the division to administer driver licensing examinations to CDL

applicants; and

(b) occupies a seat beside the individual for the purpose of:

- (i) giving the driver instruction regarding the driving of the commercial motor vehicle[-];

or

- (ii) administering a driver licensing examination to a CDL applicant.

(4) A CDL or CDIP may not be issued to a person:

- (a) subject to disqualification from driving a commercial motor vehicle; or
- (b) whose license is suspended, revoked, or canceled in any state.

(5) A CDL or CDIP may not be issued to a person until the person has surrendered all license certificates ~~[he]~~ the person holds to the division for cancellation.

Section 8. Section **53-3-410** is amended to read:

53-3-410. Applicant information required for CDIP and CDL -- State resident to have state CDL.

(1) The application for a CDL or CDIP shall include the following information regarding the applicant:

- (a) full legal name and current mailing and Utah residential address;
- (b) physical description, including sex, height, weight, and eye color;
- (c) date of birth;
- (d) Social Security number, unless the application is for a nonresident license; ~~[and (e)~~

~~his]~~

(e) a complete list of all states in which the applicant was issued a driver license in the previous ten years; and

(f) the applicant's signature.

(2) An application under this section shall also include all certifications required by 49 C.F.R., Part 383.71.

(3) When the holder of a license under this part changes [~~his~~] the holder's name, mailing address, or residence, [~~he~~] the holder shall make application for a duplicate license within 30 days of the change.

(4) A person who has been a resident of this state for 30 consecutive days may not drive a commercial motor vehicle under the authority of a commercial driver license issued by another jurisdiction.

Section 9. Section **53-3-412** is amended to read:

53-3-412. CDL classifications, endorsements, and restrictions.

A CDL may be granted with the following classifications, endorsements, and restrictions:

(1) Classifications:

(a) Class A: any combination of vehicles with a GVWR of 26,001 pounds or more, if the GVWR of the one or more vehicles being towed is in excess of 10,000 pounds;

(b) Class B: any single motor vehicle with a GVWR of 26,001 pounds or more, including that motor vehicle when towing a vehicle with a GVWR of 10,000 pounds or less; and

(c) Class C: any single motor vehicle with a GVWR of less than 26,001 pounds or that motor vehicle when towing a vehicle with a GVWR of 10,000 pounds or less when the vehicle is designed or used:

(i) to transport more than 15 passengers, including the driver;

(ii) as a school bus, and weighing less than 26,001 pounds GVWR; or

(iii) to transport hazardous materials that requires the vehicle to be placarded under 49

C.F.R., Part 172, Subpart F.

(2) Endorsements [~~and restrictions~~]:

(a) "H" authorizes the driver to drive a commercial motor vehicle transporting hazardous

materials.

~~[(b) "K" restricts the driver to driving intrastate any commercial motor vehicle as defined by Title 49, C.F.R., Parts 383 and 390.]~~

~~[(c) "L" restricts the driver to drive a commercial motor vehicle not equipped with air brakes.]~~

~~[(d)] (b) "N" authorizes the driver to drive a tank vehicle.~~

~~[(e)] (c) "P" authorizes the driver to drive a motor vehicle carrying more than 15 passengers including the driver.~~

~~[(f)] (d) "S" authorizes the driver to drive a school bus or a motor vehicle carrying more than 15 passengers including the driver.~~

~~[(g)] (e) "T" authorizes the driver to drive a commercial motor vehicle with a double or triple trailer.~~

~~[(h)] (f) "X" authorizes the driver to drive a tank vehicle and transport hazardous materials.~~

(3) Restrictions:

(a) "K" restricts the driver to driving intrastate only any commercial motor vehicle as defined by Title 49, C.F.R., Parts 383 and 390.

(b) "L" restricts the driver to driving a commercial motor vehicle not equipped with air brakes.

(c) "J" provides for other CDL restrictions.

Section 10. Section **53-3-413** is amended to read:

**53-3-413. Issuance of CDL by division -- Driving record -- Expiration date --
Renewal -- Hazardous materials provision.**

(1) Before the division may grant a CDL, the division shall obtain the driving record information regarding the applicant through the CDLIS, the NDR, and from each state where the applicant has been licensed.

(2) Within ten days after issuing a CDL, the division shall notify the CDLIS and provide all information required to ensure identification of the CDL holder.

(3) The expiration date for a CDL [~~:(a) issued before May 1, 1992, is the birth date of the holder in the fourth year following the year of issuance of the CDL; and (b) issued after April 30, 1992;~~] is the birth date of the holder in the fifth year following the year of issuance of the CDL.

(4) [~~(a)~~] The applicant for a renewal of a CDL shall complete the application form required by Section 53-3-410 and provide updated information and required certification.

(5) (a) The division may not issue a hazardous materials endorsement on a CDL unless the applicant meets the security threat assessment standards of the federal Transportation Security Administration.

(b) The division shall revoke the hazardous materials endorsement on a CDL upon receiving notice from the federal Transportation Security Administration that the person holding a hazardous materials endorsement does not meet Transportation Security Administration security threat assessment standards.

[~~(b)~~] (c) To retain a hazardous materials endorsement upon CDL renewal, the applicant must take and pass the knowledge test for hazardous materials endorsement in addition to any other testing required by the division.

Section 11. Section **53-3-414** is amended to read:

53-3-414. CDL disqualification or suspension -- Grounds and duration --

Procedure.

(1) A person who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first offense of:

(a) driving a [~~commercial~~] motor vehicle while under the influence of alcohol, drugs, a controlled substance, or more than one of these;

(b) driving a commercial motor vehicle while the concentration of alcohol in [~~his~~] the person's blood, breath, or urine is .04 grams or more;

(c) leaving the scene of an accident involving a [~~commercial~~] motor vehicle [~~he~~] the person was driving;

(d) using a [~~commercial~~] motor vehicle in the commission of a felony;

(e) refusal to submit to a test to determine the concentration of alcohol in ~~[his]~~ the person's blood, breath, or urine; ~~[or]~~

(f) driving a commercial motor vehicle while the person's commercial driver license is disqualified, suspended, canceled, or revoked~~[-];~~ or

(g) operating a commercial motor vehicle in a negligent manner causing the death of another including the offenses of automobile homicide under Section 76-5-207, manslaughter under Section 76-5-205, or negligent homicide under Section 76-5-206.

(2) If any of the violations under Subsection (1) occur while the driver is transporting a hazardous material required to be placarded, the driver is disqualified for not less than three years.

(3) (a) Except as provided under Subsection (4), a driver of a ~~[commercial]~~ motor vehicle who holds or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if convicted of two or more of any of the offenses under Subsection (1) arising from two or more separate incidents.

(b) Subsection (3)(a) applies only to those offenses committed after July 1, 1989.

(4) (a) Any driver disqualified for life from driving a commercial motor vehicle under this section~~[-, who]~~ may apply to the division for reinstatement of the driver's CDL if the driver:

(i) has both voluntarily enrolled in and successfully completed an appropriate rehabilitation program that:

(A) meets the standards of the division~~[-, may apply to the division for reinstatement of his CDL. (b) The applicant is not eligible for reinstatement until he];~~ and

(B) complies with 49 C.F.R. Part 383.51;

(ii) has served a minimum disqualification period of ten years; and

(iii) has fully met the standards for reinstatement of commercial motor vehicle driving privileges established by rule of the division.

~~[(e)]~~ (b) If a reinstated driver is subsequently convicted of another disqualifying offense under this section, ~~[he]~~ the driver is permanently disqualified for life and is ineligible to again apply for a reduction of the lifetime disqualification.

(5) A driver of a ~~[commercial]~~ motor vehicle who holds or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if ~~[he]~~ the driver uses a ~~[commercial]~~ motor vehicle in the commission of any felony involving the manufacturing, distributing, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

(6) ~~[A]~~ (a) Subject to Subsection (6)(b), a driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified for not less than:

(i) 60 days from driving a commercial motor vehicle if ~~[he]~~ the driver is convicted of two serious traffic violations; and ~~[is disqualified for not less than]~~

(ii) 120 days if ~~[he]~~ the driver is convicted of three or more serious traffic violations ~~[that:]~~.

(b) The disqualifications under Subsection (6)(a) are effective only if the serious traffic violations:

~~[(a)]~~ (i) occur within three years of each other;

~~[(b)]~~ (ii) arise from separate incidents; and

~~[(c)]~~ (iii) involve the use or operation of a commercial motor vehicle.

(7) A driver of a commercial motor vehicle who is convicted of violating an out-of-service order while driving a commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period not less than:

(a) 90 days but not more than one year if the driver is convicted of a first violation;

(b) one year but not more than five years if, during any ten-year period, the driver is convicted of two violations of out-of-service orders in separate incidents;

(c) three years but not more than five years if, during any ten-year period, the driver is convicted of three or more violations of out-of-service orders in separate incidents;

(d) 180 days but not more than two years if the driver is convicted of a first violation of an out-of-service order while transporting hazardous materials required to be placarded or while operating a motor vehicle designed to transport 16 or more passengers, including the driver; or

(e) three years but not more than five years if, during any ten-year period, the driver is

convicted of two or more violations, in separate incidents, of an out-of-service order while transporting hazardous materials required to be placarded or while operating a motor vehicle designed to transport 16 or more passengers, including the driver.

(8) A driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified for not less than 60 days if the division determines, in its check of ~~[his]~~ the driver's driver license status, application, and record prior to issuing a CDL or at any time after the CDL is issued, that the driver has falsified information required to apply for a CDL in this state.

(9) A driver of a commercial motor vehicle who is convicted of violating a railroad-highway grade crossing provision under Section 41-6-97, while driving a commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period not less than:

(a) 60 days if the driver is convicted of a first violation;

(b) 120 days if, during any three-year period, the driver is convicted of a second violation in separate incidents; or

(c) one year if, during any three-year period, the driver is convicted of three or more violations in separate incidents.

(10) (a) The division shall update its records and notify the CDLIS within ten days of suspending, revoking, disqualifying, denying, or cancelling a CDL to reflect the action taken.

(b) When the division suspends, revokes, cancels, or disqualifies a nonresident CDL, the division shall notify the licensing authority of the issuing state or other jurisdiction and the CDLIS within ten days after the action is taken.

(c) When the division suspends, revokes, cancels, or disqualifies a CDL issued by this state, the division shall notify the CDLIS within ten days after the action is taken.

(11) (a) The division may immediately suspend or disqualify the CDL of a driver without a hearing or receiving a record of the driver's conviction when the division has reason to believe that the:

(i) CDL was issued by the division through error or fraud;

(ii) applicant provided incorrect or incomplete information to the division; ~~[or]~~

(iii) applicant cheated on any part of a CDL examination;

- ~~[(iii)]~~ (iv) driver no longer meets the fitness standards required to obtain a CDL[-]; or
- (v) driver poses an imminent hazard.

(b) Suspension of a CDL under this Subsection (11) shall be in accordance with Section 53-3-221.

(c) If a hearing is held under Section 53-3-221, the division shall then rescind the suspension order or cancel the CDL.

(12) (a) Subject to Subsection (12)(b), a driver of a motor vehicle who holds or is required to hold a CDL is disqualified for not less than:

(i) 60 days from driving a commercial motor vehicle if the driver is convicted of two serious traffic violations; and

(ii) 120 days if the driver is convicted of three or more serious traffic violations.

(b) The disqualifications under Subsection (12)(a) are effective only if the serious traffic violations:

(i) occur within three years of each other;

(ii) arise from separate incidents; and

(iii) result in a denial, suspension, cancellation, or revocation of the non-CDL driving privilege from at least one of the violations.

Section 12. Section **76-10-508** is amended to read:

76-10-508. Discharge of firearm from a vehicle, near a highway, or in direction of any person, building, or vehicle -- Penalties.

(1) (a) A person may not discharge any kind of dangerous weapon or firearm:

(i) from an automobile or other vehicle;

(ii) from, upon, or across any highway;

(iii) at any road signs placed upon any highways of the state;

(iv) at any communications equipment or property of public utilities including facilities, lines, poles, or devices of transmission or distribution;

(v) at railroad equipment or facilities including any sign or signal;

(vi) within Utah State Park buildings, designated camp or picnic sites, overlooks, golf

courses, boat ramps, and developed beaches; or

(vii) without written permission to discharge the dangerous weapon from the owner or person in charge of the property within 600 feet of:

(A) a house, dwelling, or any other building; or

(B) any structure in which a domestic animal is kept or fed, including a barn, poultry yard, corral, feeding pen, or stockyard.

(b) It shall be a defense to any charge for violating this section that the person being accused had actual permission of the owner or person in charge of the property at the time in question.

(2) A violation of any provision of this section is a class B misdemeanor unless the actor discharges a firearm under any of the following circumstances not amounting to criminal homicide or attempted criminal homicide, in which case it is a third degree felony and the convicted person shall be sentenced to an enhanced minimum term of three years in prison:

(a) the actor discharges a firearm in the direction of any person or persons, knowing or having reason to believe that any person may be endangered;

(b) the actor, with intent to intimidate or harass another or with intent to damage a habitable structure as defined in Subsection 76-6-101(2), discharges a firearm in the direction of any building; or

(c) the actor, with intent to intimidate or harass another, discharges a firearm in the direction of any vehicle.

(3) The court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Section 53-3-220(1)(a)(xi); and

(b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

~~(3)~~ (4) This section does not apply to a person:

(a) who discharges any kind of firearm when that person is in lawful defense of self or others; or

(b) who is performing official duties as provided in Sections 23-20-1.5 and 76-10-523 and as otherwise provided by law.

Section 13. Effective date.

This bill takes effect on July 1, 2005.