

1 **DRIVER LICENSE PRIVILEGE SUSPENSION**
2 **FOR FAILURE TO PAY CHILD SUPPORT**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Julie Fisher**

6 Senate Sponsor: Carlene M. Walker

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Utah Human Services Code and the Public Safety Code to
11 establish a procedure for the Office of Recovery Services to order an administrative
12 suspension of a person's driving privileges when the person is in arrears on a child
13 support obligation.

14 **Highlighted Provisions:**

15 This bill:

- 16 ▶ defines terms;
- 17 ▶ establishes a procedure for the Office of Recovery Services, within the Department
18 of Human Services, to order, and the Driver License Division, within the
19 Department of Public Safety, to recognize and impose, a suspension of a person's
20 driving privileges when the person is at least 60 days in arrears on a child support
21 obligation;

21a ~~H~~→ **▶ requires that the Driver License Division, upon application, issue a temporary**
21b **limited driver license to a person whose driver license is suspended under this bill if the person**
21c **needs a driver license for employment, education, or child visitation;** ←~~H~~

- 22 ▶ provides that a suspension imposed under this bill will remain in effect until the
23 Office of Recovery Services rescinds the order of suspension;
- 24 ▶ provides that the suspension of a person's driving privileges under this bill will not
25 be included in the person's driving record after the order of suspension is rescinded;
- 26 ▶ requires the Driver License Division to disclose to the Office of Recovery Services
27 the name and identifying information of each person to whom a license has been



28 issued or whose driving privileges have been suspended, revoked, or reinstated;

29 ▶ provides that the information received by the Office of Recovery Services under the
30 preceding paragraph is subject to the Government Records Access and Management

31 Act;

32 ▶ describes the circumstances under which an order to suspend a person's driving
33 privileges may not be made, or under which an order to suspend a person's driving
34 privileges will be rescinded;

34a ~~Ĥ~~→ ▶ **provides that, if the office seeks a driver license suspension of a person who is**
34b **not delinquent, the office shall refund any non-custodial parent income withholding fee that**
34c **was collected during the alleged delinquency, unless the person is otherwise in arrears on a**
34d **child support obligation;** ←~~Ĥ~~

35 ▶ grants rulemaking authority to the Office of Recovery Services;

36 ▶ requires the Office of Recovery Services to provide notice of an order, or the
37 rescinding of an order, suspending a person's driving privileges, to the person to
38 whom the suspension applies and to the Driver License Division;

39 ▶ describes the contents of the notice described in the preceding paragraph; and

40 ▶ makes technical changes.

41 **Monies Appropriated in this Bill:**

42 None

43 **Other Special Clauses:**

44 ~~Ĥ~~→ [~~None~~] **This bill takes effect on January 1, 2007.** ←~~Ĥ~~

45 **Utah Code Sections Affected:**

46 AMENDS:

47 **31A-19a-211**, as renumbered and amended by Chapter 130, Laws of Utah 1999

48 **41-6a-403**, as renumbered and amended by Chapter 2, Laws of Utah 2005

49 **53-3-102**, as last amended by Chapters 90, 161, 335 and 357, Laws of Utah 2004

50 **53-3-221**, as last amended by Chapter 197, Laws of Utah 2005

51 ENACTS:

52 **53-3-221.5**, Utah Code Annotated 1953

53 **62A-11-601**, Utah Code Annotated 1953

54 **62A-11-602**, Utah Code Annotated 1953

55 **62A-11-603**, Utah Code Annotated 1953

56 **62A-11-604**, Utah Code Annotated 1953

57

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

59 Section 1. Section **31A-19a-211** is amended to read:

60 **31A-19a-211. Premium rate reduction for seniors -- Motor vehicle accident**
61 **prevention course -- Curriculum -- Certificate -- Exception.**

62 (1) (a) Each rate, rating schedule, and rating manual for the liability, personal injury
63 protection, and collision coverages of private passenger motor vehicle insurance policies
64 submitted to or filed with the commissioner shall provide for an appropriate reduction in
65 premium charges for those coverages if the principal operator of the covered vehicle:

66 (i) is a named insured who is 55 years of age or older; and

67 (ii) has successfully completed a motor vehicle accident prevention course as outlined
68 in Subsection (2).

69 (b) Any premium reduction provided by an insurer under this section is presumed to be
70 appropriate unless credible data demonstrates otherwise.

71 (2) (a) The curriculum for a motor vehicle accident prevention course under this
72 section shall include:

73 (i) how impairment of visual and audio perception affects driving performance and
74 how to compensate for that impairment;

75 (ii) the effects of fatigue, medications, and alcohol on driving performance, when
76 experienced alone or in combination, and precautionary measures to prevent or offset ill
77 effects;

78 (iii) updates on rules of the road and equipment, including safety belts and safe,
79 efficient driving techniques under present day road and traffic conditions;

80 (iv) how to plan travel time and select routes for safety and efficiency; and

81 (v) how to make crucial decisions in dangerous, hazardous, and unforeseen situations.

82 (b) (i) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
83 the Department of Public Safety may make rules to establish and clarify standards pertaining to
84 the curriculum and teaching methods of a course under this section.

85 (ii) These rules may include provisions allowing the department to conduct on-site
86 visits to ensure compliance with agency rules and this chapter.

87 (iii) These rules shall be specific as to time and manner of visits and provide for
88 methods to prohibit or remedy forcible visits.

89 (3) (a) The premium reduction required by this section shall be effective for a named

90 insured for a three-year period after successful completion of the course outlined in Subsection
91 (2).

92 (b) The insurer may require, as a condition of maintaining the premium reduction, that
93 the named insured not be convicted or plead guilty or nolo contendere to a moving traffic
94 violation for which points may be assessed against the named insured's driver license except
95 for a violation under Subsection 53-3-221[~~(11)~~] (12).

96 (4) Each person who successfully completes the course outlined in Subsection (2) shall
97 be issued a certificate by the organization offering the course. The certificate qualifies the
98 person for the premium reduction required by this section.

99 (5) This section does not apply if the approved course outlined in Subsection (2) is
100 attended as a penalty imposed by a court or other governmental entity for a moving traffic
101 violation.

102 Section 2. Section **41-6a-403** is amended to read:

103 **41-6a-403. Vehicle accidents -- Investigation and report of operator security --**
104 **Agency action if no security -- Surrender of plates -- Penalties.**

105 (1) (a) Upon request of a peace officer investigating an accident involving a motor
106 vehicle, the operator of the motor vehicle shall provide evidence of the owner's or operator's
107 security required under Section 41-12a-301.

108 (b) The evidence of owner's or operator's security includes information specified under
109 Section 41-12a-303.2.

110 (2) The peace officer shall record on a form approved by the department:

111 (a) the information provided by the operator;

112 (b) whether the operator provided insufficient or no information;

113 (c) whether the officer finds reasonable cause to believe that any information given is
114 not correct; and

115 (d) whether other information available to the peace officer indicates that owner's or
116 operator's security is in effect.

117 (3) The peace officer shall deposit all completed forms with the peace officer's law
118 enforcement agency, which shall forward the forms to the department no later than ten days
119 after receipt.

120 (4) (a) The department shall within ten days of receipt of the forms from the law

121 enforcement agency take action as follows:

122 (i) if the operator provided no information under Subsection (1) and other information
123 available to the peace officer does not indicate that owner's or operator's security is in effect,
124 the department shall take direct action under Subsection 53-3-221[~~(12)~~] (13); or

125 (ii) if the peace officer noted or the department determines that there is reasonable
126 cause to believe that the information given under Subsection (1) is not correct, the department
127 shall contact directly the insurance company or other provider of security as described in
128 Section 41-12a-303.2 and request verification of the accuracy of the information submitted as
129 of the date of the accident.

130 (b) The department may require the verification under Subsection (4)(a)(ii) to be in a
131 form specified by the department.

132 (c) The insurance company or other provider of security shall return the verification to
133 the department within 30 days of receipt of the request.

134 (d) If the department does not receive verification within 35 days after sending the
135 request, or within the 35 days receives notice that the information was not correct, the
136 department shall take action under Subsection 53-3-221[~~(12)~~] (13).

137 (5) (a) The owner of a vehicle with unexpired license plates for which security is not
138 provided as required under this chapter shall return the plates for the vehicle to the Motor
139 Vehicle Division unless specifically permitted by statute to retain them.

140 (b) If the owner fails to return the plates as required, the plates shall be confiscated
141 under Section 53-3-226.

142 (6) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
143 department may make rules for the enforcement of this section.

144 (7) A person is guilty of a class B misdemeanor, and shall be fined not less than \$100,
145 who:

146 (a) when requested to provide security information under Subsection (1), or Section
147 41-12a-303.2, provides false information;

148 (b) falsely represents to the department that security required under this chapter is in
149 effect; or

150 (c) sells a vehicle to avoid the penalties of this section as applicable either to himself or
151 a third party.

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

153 **53-3-102. Definitions.**

154 As used in this chapter:

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

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

159 (3) "Class M license" means the class of license issued to drive a motorcycle as defined
160 under this chapter.

161 (4) "Commercial driver license" or "CDL" means a license issued substantially in
162 accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle
163 Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act,
164 which authorizes the holder to drive a class of commercial motor vehicle.

165 (5) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor
166 vehicles designed or used to transport passengers or property if the motor vehicle:

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

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

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

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

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

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

182 (iii) firefighting and emergency vehicles; and

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

185 (6) "Conviction" means any of the following:

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

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

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

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

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

194 (7) "Denial" or "denied" means the withdrawal of a driving privilege by the division to
195 which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner's or Operator's Security,
196 do not apply.

197 (8) "Director" means the division director appointed under Section 53-3-103.

198 (9) "Disqualification" means either:

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

201 (b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386,
202 that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part
203 391; or

204 (c) the loss of qualification that automatically follows conviction of an offense listed in
205 49 C.F.R. Part 383.51.

206 (10) "Division" means the Driver License Division of the department created in
207 Section 53-3-103.

208 (11) "Drive" means:

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

210 (b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections
211 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within
212 the state.

213 (12) (a) "Driver" means any person who drives, or is in actual physical control of a

214 motor vehicle in any location open to the general public for purposes of vehicular traffic.

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

217 (13) "Extension" means a renewal completed in a manner specified by the division.

218 (14) "Farm tractor" means every motor vehicle designed and used primarily as a farm
219 implement for drawing plows, mowing machines, and other implements of husbandry.

220 (15) "Highway" means the entire width between property lines of every way or place of
221 any nature when any part of it is open to the use of the public, as a matter of right, for traffic.

222 (16) "License" means the privilege to drive a motor vehicle.

223 (17) "License certificate" means the evidence of the privilege issued under this chapter
224 to drive a motor vehicle.

225 (18) "Motorboat" has the same meaning as provided under Section 73-18-2.

226 (19) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or
227 saddle for the use of the rider and designed to travel with not more than three wheels in contact
228 with the ground.

229 (20) "Office of Recovery Services" means the Office of Recovery Services, created in
230 Section 62A-11-102.

231 [~~20~~] (21) (a) "Owner" means a person other than a lienholder having an interest in the
232 property or title to a vehicle.

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

235 [~~21~~] (22) "Renewal" means to validate a license certificate so that it expires at a later
236 date.

237 [~~22~~] (23) "Reportable violation" means an offense required to be reported to the
238 division as determined by the division and includes those offenses against which points are
239 assessed under Section 53-3-221.

240 [~~23~~] (24) (a) "Resident" means an individual who:

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

244 (ii) engages in a trade, profession, or occupation in this state, or who accepts

245 employment in other than seasonal work in this state, and who does not commute into the state;

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

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

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

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

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

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

258 (iv) an immediate family member who resides with or a household member of a person
259 listed in Subsections [~~(23)~~] (24)(b)(i) through (iii).

260 [~~(24)~~] (25) "Revocation" means the termination by action of the division of a licensee's
261 privilege to drive a motor vehicle.

262 [~~(25)~~] (26) (a) "School bus" means a commercial motor vehicle used to transport
263 pre-primary, primary, or secondary school students to and from home and school, or to and
264 from school sponsored events.

265 (b) "School bus" does not include a bus used as a common carrier as defined in Section
266 59-12-102.

267 [~~(26)~~] (27) "Suspension" means the temporary withdrawal by action of the division of a
268 licensee's privilege to drive a motor vehicle.

269 [~~(27)~~] (28) "Taxicab" means any class D motor vehicle transporting any number of
270 passengers for hire and that is subject to state or federal regulation as a taxi.

271 Section 4. Section **53-3-221** is amended to read:

272 **53-3-221. Offenses which may result in denial, suspension, disqualification, or**
273 **revocation of license without hearing -- Additional grounds for suspension -- Point system**
274 **for traffic violations -- Notice and hearing -- Reporting of traffic violation procedures.**

275 (1) By following the emergency procedures in Title 63, Chapter 46b, Administrative

276 Procedures Act, the division may immediately deny, suspend, disqualify, or revoke the license
277 of any person without hearing and without receiving a record of the person's conviction of
278 crime when the division has been notified or has reason to believe the person:

279 (a) has committed any offenses for which mandatory suspension or revocation of a
280 license is required upon conviction under Section 53-3-220;

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

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

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

287 (e) has knowingly acquired, used, displayed, or transferred an item that purports to be
288 an authentic driver license certificate issued by a governmental entity if the item is not an
289 authentic driver license certificate or has permitted an unlawful use of the license as prohibited
290 under Section 53-3-229; or

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

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

298 (b) This Subsection (2) applies to parking and standing violations only if a court has
299 issued a warrant for the arrest of a person for failure to post bail, appear, or otherwise satisfy
300 the terms of the citation.

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

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

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

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

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

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

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

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

321 (b) Every person convicted of a traffic violation shall have assessed against his driving
322 record the number of points that the division has assigned to the type of violation of which the
323 person has been convicted, except that the number of points assessed shall be decreased by
324 10% if on the abstract of the court record of the conviction the court has graded the severity of
325 violation as minimum, and shall be increased by 10% if on the abstract the court has graded the
326 severity of violation as maximum.

327 (c) (i) A separate procedure for assessing points for speeding offenses shall be
328 established by the division based upon the severity of the offense.

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

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

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

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

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

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

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

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

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

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

347 (5) (a) (i) Upon denying or suspending the license of a person under this section, the
348 division shall immediately notify the licensee in a manner specified by the division and afford
349 him an opportunity for a hearing in the county where the licensee resides.

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

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

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

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

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

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

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

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

365 (6) (a) ~~It~~ → [The] Subject to Subsection (6)(d), the ← ~~It~~ division shall suspend a person's
365a license when the division receives notice
366 from the Office of Recovery Services that the Office of Recovery Services has ordered the
367 suspension of the person's license.

368 (b) A suspension under Subsection (6)(a) shall remain in effect until the division

369 receives notice from the Office of Recovery Services that the Office of Recovery Services has
 370 rescinded the order of suspension.

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

372a **Ĥ→ (d)(i) If the division suspends a person's license under this Subsection (6), the**
 372b **division shall, upon application, issue a temporary limited driver license to the person if that**
 372c **person needs a driver license for employment, education, or child visitation.**

372d **(ii) The temporary limited driver license described in this section:**

372e **(A) shall provide that the person may operate a motor vehicle only for**
 372f **the purpose of driving to or from the person's place of employment, education or child**
 372g **visitation;**

372h **(B) shall prohibit the person from driving a motor vehicle for any**
 372i **purpose other than a purpose described in Subsection (6)(d)(ii)(A); and**

372j **(C) shall expire 90 days after the day on which the temporary**
 372k **limited driver license is issued.**

372l **(iii) Š→ A ←Š During the period beginning on the day on which a temporary limited**
 372m **driver license is issued under this Subsection (6) and ending on the day that the temporary**
 372n **limited driver license expires, the suspension described in this Subsection (6) only applies if the**
 372o **person who is suspended operates a motor vehicle for a purpose other than employment,**
 372p **education, or child visitation.**

372pa **Š→ (B) Upon expiration of a temporary limited driver license described in this**
 372pb **Subsection (6)(d), a suspension described in Subsection (6)(a) shall be in effect, without**
 372pc **limitation, until the division receives notice, under Subsection (6)(b), that the order of**
 372pd **suspension is rescinded. ←Š**

372q **(iv) The division is not required to issue a limited driver license to a person**
 372r **under this Subsection (d) if there are other legal grounds for the suspension of the person's**
 372s **driver license.**

372t **(v) The division shall make rules, in accordance with Title 63, Chapter 46a,**
 372u **Utah Administrative Rulemaking Act, to implement the provisions of this part. ←Ĥ**

373 ~~[(6)]~~ (7) (a) The division may suspend or revoke the license of any resident of this state
 374 upon receiving notice of the conviction of that person in another state of an offense committed
 375 there that, if committed in this state, would be grounds for the suspension or revocation of a
 376 license.

377 (b) The division may, upon receiving a record of the conviction in this state of a

378 nonresident driver of a motor vehicle or motorboat of any offense under the motor vehicle laws
379 of this state, forward a certified copy of the record to the motor vehicle administrator in the
380 state where the person convicted is a resident.

381 [~~7~~] (8) (a) The division may suspend or revoke the license of any nonresident to drive

382 a motor vehicle in this state for any cause for which the license of a resident driver may be
383 suspended or revoked.

384 (b) Any nonresident who drives a motor vehicle upon a highway when his license has
385 been suspended or revoked by the division is guilty of a class C misdemeanor.

386 [~~8~~] (9) (a) The division may not deny or suspend the license of any person for a
387 period of more than one year except:

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

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

391 (iii) when extending a denial or suspension upon receiving certain records or reports
392 under Subsection 53-3-220(2); [~~and~~]

393 (iv) for failure to give and maintain owner's or operator's security under Section
394 41-12a-411[-]; or

395 (v) when the division suspends the license under Subsection (6).

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

398 [~~9~~] (10) (a) By following the emergency procedures in Title 63, Chapter 46b,
399 Administrative Procedures Act, the division may immediately suspend the license of any

400 person without hearing and without receiving a record of his conviction for a crime when the
401 division has reason to believe that the person's license was granted by the division through
402 error or fraud or that the necessary consent for the license has been withdrawn or is terminated.

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

405 ~~[(10)]~~ (11) (a) The division, having good cause to believe that a licensed driver is
406 incompetent or otherwise not qualified to be licensed, may upon notice in a manner specified
407 by the division of at least five days to the licensee require him to submit to an examination.

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

411 (c) Refusal or neglect of the licensee to submit to an examination is grounds for
412 suspension or revocation of his license.

413 ~~[(11)]~~ (12) A report authorized by Section 53-3-104 may not contain any evidence of a
414 conviction for speeding on an interstate system in this state if the conviction was for a speed of
415 ten miles per hour or less, above the posted speed limit and did not result in an accident, unless
416 authorized in a manner specified by the division by the individual whose report is being
417 requested.

418 ~~[(12)]~~ (13) (a) By following the emergency procedures in Title 63, Chapter 46b,
419 Administrative Procedures Act, the division may immediately suspend the license of a person
420 if it has reason to believe that the person is the owner of a motor vehicle for which security is
421 required under Title 41, Chapter 12a, Vehicle Financial Responsibility of Motor Vehicle
422 Owners and Operators Act, and has driven the motor vehicle or permitted it to be driven within
423 this state without the security being in effect.

424 (b) Section 41-12a-411 regarding the requirement of proof of owner's or operator's
425 security applies to persons whose driving privileges are suspended under this Subsection ~~[(12)]~~
426 (13).

427 (c) If the division exercises the right of immediate suspension granted under this
428 Subsection ~~[(12)]~~ (13), the notice and hearing provisions of Subsection (5) apply.

429 (d) A person whose license suspension has been sustained or whose license has been
430 revoked by the division under this Subsection (13) may file a request for agency action

431 requesting a hearing.

432 ~~[(13)]~~ (14) Any suspension or revocation of a person's license under this section also
433 disqualifies any license issued to that person under Part 4 of this chapter.

434 Section 5. Section **53-3-221.5** is enacted to read:

435 **53-3-221.5. Disclosure of license information to the Office of Recovery Services.**

436 (1) The division shall disclose to the Office of Recovery Services the name, address,
437 and other identifying information of each person:

438 (a) to whom a license has been issued; or

439 (b) whose driving privileges have been suspended, revoked, or reinstated.

440 (2) All information received by the Office of Recovery Services under this section is
441 subject to Title 63, Chapter 2, Government Records Access and Management Act.

442 Section 6. Section **62A-11-601** is enacted to read:

443 **Part 6. Administrative License Suspension Child Support Enforcement Act**

444 **62A-11-601. Title.**

445 This part is known as the "Administrative License Suspension Child Support
446 Enforcement Act."

447 Section 7. Section **62A-11-602** is enacted to read:

448 **62A-11-602. Definitions.**

449 As used in this part:

450 (1) "Child support" is as defined in Section 62A-11-401.

451 (2) "Delinquent on a child support obligation" means that a person:

452 (a) (i) made no payment for 60 days on a current child support obligation as set forth in
453 an administrative or court order;

454 (ii) after the 60-day period described in Subsection (2)(a)(i), failed to make a good faith
455 effort under the circumstances to make payment on the child support obligation in accordance
456 with the order; and

457 (iii) has not obtained a judicial order staying enforcement of the person's child support
458 obligation, or the amount in arrears; or

459 (b) (i) made no payment for 60 days on an arrearage obligation of child support as set
460 forth in:

461 (A) a payment schedule;

462 (B) a written agreement with the office; or

463 (C) an administrative or judicial order;

464 (ii) after the 60-day period described in Subsection (2)(b)(i), failed to make a good

465 faith effort under the circumstances to make payment on the child support obligation in

466 accordance with the payment schedule, agreement, or order; and

467 (iii) has not obtained a judicial order staying enforcement of the person's child support

468 obligation, or the amount in arrears.

469 (3) "Driver license" means a license, as defined in Section 53-3-102.

470 (4) "Driver License Division" means the Driver License Division of the Department of

471 Public Safety created in Section 53-3-103.

472 (5) "Office" means the Office of Recovery Services created in Section 62A-11-102.

473 Section 8. Section **62A-11-603** is enacted to read:

474 **62A-11-603. Suspension of driver license for child support delinquency --**

475 **Reinstatement.**

476 (1) Subject to the provisions of this section, the office may order the suspension of a

477 person's driver license if the person is delinquent on a child support obligation.

478 (2) Before ordering a suspension of a person's driver license, the office shall serve the

479 person with a "notice of intent to suspend driver license."

480 (3) The notice described in Subsection (2) shall:

481 (a) be personally served or served by certified mail;

482 (b) comply with, and be served in accordance with, Title 63, Chapter 46b,

483 Administrative Procedures Act;

484 (c) state the amount that the person is in arrears on the person's child support

485 obligation; and

486 (d) state that, if the person desires to contest the suspension of the person's driver

487 license, the person must request an informal adjudicative proceeding with the office within ~~15~~ [15]

487a **30 ←~~15~~**

488 days after the day ~~15~~ [that] on which ←~~15~~ the notice is mailed or personally served.

489 (4) (a) The office shall hold an informal adjudicative proceeding to determine whether

490 a person's driver license should be suspended if the person requests a hearing within ~~15~~ [15] 30

490a **←~~15~~ days ~~15~~ [of] after ←~~15~~**

491 the day on which the notice described in Subsection (2) is mailed or personally served on the

492 person.

493 (b) The informal adjudicative proceeding described in Subsection (4)(a), and any
494 appeal of the decision rendered in that proceeding, shall comply with Title 63, Chapter 46b,
495 Administrative Procedures Act.

496 (5) Except as provided in Subsection (6), the office may order that a person's driver
497 license be suspended:

498 (a) if, after receiving the notice described in Subsection (2), the person fails to request
499 an informal adjudicative proceeding within the time period described in Subsection (4)(a); or

500 (b) following the informal adjudicative proceeding described in Subsection (4)(a) if:

501 (i) the presiding officer finds that the person is delinquent on a child support
502 obligation; and

503 (ii) the finding described in Subsection (5)(b)(i):

504 (A) is not timely appealed; or

505 (B) is upheld after a timely appeal becomes final.

506 (6) The office may not order the suspension of a person's driver license if the person:

507 (a) pays the full amount that the person is in arrears on the person's child support
508 obligation;

509 (b) subject to Subsection (8):

510 (i) enters into a payment agreement with the office for the payment of the person's
511 current child support obligation and all arrears; and

512 (ii) complies with the agreement described in Subsection (6)(b)(i) for any initial
513 compliance period required by the agreement;

514 (c) obtains a judicial order staying enforcement of the person's child support obligation
515 or the amount in arrears; or

516 (d) is not currently delinquent on a child support obligation.

517 (7) The office shall rescind an order made by the office to suspend a driver license if
518 the person:

519 (a) pays the full amount that the person is in arrears on the person's child support
520 obligation;

521 (b) subject to Subsection (8):

522 (i) enters into a payment agreement with the office for the payment of the person's
523 current child support obligation and all arrears; and

524 (ii) complies with the agreement described in Subsection (7)(b)(i) for any initial
 525 compliance period required by the agreement;

526 (c) obtains a judicial order staying enforcement of the person's child support obligation
 527 or the amount in arrears; or

528 (d) is not currently delinquent on a child support obligation.

529 (8) ~~H~~→ [Nothing in Subsection (6)(b) or (7)(b) requires the office to enter into a payment
 530 agreement with a person whose driver license the office:

531 —— (a) is seeking to suspend; or

532 —— (b) has suspended.] For purposes of Subsections (6)(b) and (7)(b), the office shall
 532a1 diligently strive to enter into a fair and reasonable payment agreement that takes into account
 532b1 the person's employment and financial ability to make payments, provided that there is a
 532c1 reasonable basis to believe that the person will comply with the agreement.

532a (9)(a) If, after the office seeks to suspend a person's driver license under this
 532b section, it is determined that the person is not delinquent, the office shall refund to the person
 532c any noncustodial parent income withholding fee that was collected from the person during the
 532d alleged delinquency.

532e (b) Subsection (9)(a) does not apply if the person described in Subsection (9)(a) is
 532f otherwise in arrears on a child support obligation.

533 [~~9~~] (10) ~~H~~ The office may make rules, in accordance with Title 63, Chapter 46a, Utah
 534 Administrative Rulemaking Act, to implement the provisions of this part.

535 Section 9. Section **62A-11-604** is enacted to read:

536 **62A-11-604. Notification of order to suspend or rescision of order.**

537 (1) When, pursuant to this part, the office orders the suspension of a person's driver
 538 license, or rescinds an order suspending a person's driver license, the office shall, within five
 539 business days after the day that the order or rescision is made, notify:

540 (a) the Driver License Division; and

541 (b) the person to whom the order or rescision applies.

542 (2) (a) The notification described in Subsection (1) shall include the name and
 543 identifying information of the person described in Subsection (1).

544 (b) The notification to a person described in Subsection (1)(b) shall include a statement
 545 indicating that the person must reinstate the person's license with the Driver License Division
 546 before operating a motor vehicle.

546a **H→ Section 10. Effective date.**

546b **This bill takes effect on January 1, 2007. ~~H~~**

Legislative Review Note

as of 1-3-06 7:04 AM

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

Fiscal Note
Bill Number HB0083

Driver License Privilege Suspension for Failure to Pay Child Support

30-Jan-06

12:36 PM

AMENDED NOTE

State Impact

It is estimated that provisions of this bill can be implemented with existing resources and with no significant loss of revenue to the state.

Individual and Business Impact

Individuals who do not comply with provisions of the bill could lose their driving privilege until a determination is made that they once again are in compliance. Provisions of the bill may result in added revenues for child support, depending on the level of compliance.

Office of the Legislative Fiscal Analyst

