

**AMENDMENTS TO COMMERCIAL DRIVER
LICENSE PROVISIONS**

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jeff Alexander

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies the Uniform Driver License Act by amending provisions relating to qualifications for a commercial driver license.

Highlighted Provisions:

This bill:

- ▶ defines CDL driver training school;
- ▶ provides that a temporary CDL may be issued to a person who:
 - is enrolled in a CDL driver training school located in Utah;
 - has passed a test of knowledge and skills for driving a commercial motor vehicle; and
 - has complied with certain federal regulations;
- ▶ provides that a temporary CDL is valid for 60 days and may not be renewed or extended;
- ▶ provides that an applicant for a temporary CDL is not required to be a Utah resident or provide a Utah residential address; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:



None

Utah Code Sections Affected:

AMENDS:

53-3-204, as last amended by Chapter 20, Laws of Utah 2005

53-3-205, as last amended by Chapters 20 and 34, Laws of Utah 2005

53-3-407, as renumbered and amended by Chapter 234, Laws of Utah 1993

53-3-410, as last amended by Chapter 220, Laws of Utah 2005

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

Section 1. Section **53-3-204** is amended to read:

53-3-204. Persons who may not be licensed.

(1) (a) The division may not license a person who:

(i) is younger than 16 years of age;

(ii) has not completed a course in driver training approved by the commissioner; or

(iii) if the person is a minor, has not completed the driving requirement under Section 53-3-211; or

(iv) is not a resident of the state of Utah, unless the person is issued a temporary CDL under Subsection 53-3-407(2)(b).

(b) Subsections (1)(a)(i), (ii), and (iii) do not apply to a person:

(i) who has been licensed before July 1, 1967;

(ii) who is 16 years of age or older making application for a license who has been licensed in another state or country; or

(iii) who is applying for a permit under Section 53-3-210 or 53A-13-208.

(2) The division may not issue a license certificate to a person:

(a) whose license has been suspended, denied, cancelled, or disqualified during the period of suspension, denial, cancellation, or disqualification;

(b) whose privilege has been revoked, except as provided in Section 53-3-225;

(c) who has previously been adjudged mentally incompetent and who has not at the time of application been restored to competency as provided by law;

(d) who is required by this chapter to take an examination unless the person successfully passes the examination; or

(e) whose driving privileges have been denied or suspended under:

(i) Section 78-3a-506 by an order of the juvenile court; or

(ii) Section 53-3-231.

(3) The division may grant a class D or M license to a person whose commercial license is disqualified under Part 4, Uniform Commercial Driver License Act, of this chapter if the person is not otherwise sanctioned under this chapter.

Section 2. Section **53-3-205** is amended to read:

53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving record transferred from other states -- Reinstatement -- Fee required -- License agreement.

(1) An application for any original license, provisional license, or endorsement shall be:

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests for a class D license within six months of the date of the application;

(b) a learner permit if needed after the knowledge test is passed; and

(c) an original class D license and license certificate after all tests are passed.

(3) An application and fee for an original class M license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests for a class M license within six months of the date of the application;

(b) a learner permit if needed after the knowledge test is passed; and

(c) an original class M license and license certificate after all tests are passed.

(4) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months of the date of the application;

(b) a motorcycle learner permit if needed after the motorcycle knowledge test is

passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(5) An application and fees for a commercial class A, B, or C license entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application;

(b) a commercial driver instruction permit if needed after the knowledge test is passed; and

(c) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

(6) An application and fee for a CDL endorsement entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application; and

(b) a CDL endorsement when all tests are passed.

(7) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (5) or (6), each test may be taken two additional times within the six months for the fee provided in Section 53-3-105.

(8) (a) Except as provided under Subsections (8)(f) and (g), an original license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(b) Except as provided under Subsections (8)(f) and (g), a renewal or an extension to a license expires on the birth date of the licensee in the fifth year following the expiration date of the license certificate renewed or extended.

(c) Except as provided under Subsections (8)(f) and (g), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e) A license and any endorsement to the license held by a person ordered to active duty and stationed outside Utah in any of the armed forces of the United States, which expires during the time period the person is stationed outside of the state, is valid until 90 days after the person has been discharged or has left the service, unless the license is suspended, disqualified,

denied, or has been cancelled or revoked by the division, or the licensee updates the information or photograph on the license certificate.

(f) An original license or a renewal to an original license obtained using proof under Subsection (9)(a)(i)(E)(III) expires on the date of the expiration of the applicant's foreign visa, permit, or other document granting legal presence in the United States or on the date provided under this Subsection (8), whichever is sooner.

(g) (i) An original license or a renewal or a duplicate to an original license expires on the next birth date of the applicant or licensee beginning on July 1, 2005 if:

(A) the license was obtained without using a Social Security number as required under Subsection (9); and

(B) the license certificate or driving privilege card is not clearly distinguished as required under Subsection 53-3-207(6).

(ii) A driving privilege card issued or renewed under Section 53-3-207 expires on the birth date of the applicant in the first year following the year that the driving privilege card was issued or renewed.

(iii) The expiration dates provided under Subsections (8)(g)(i) and (ii) do not apply to an original license or driving privilege card or to the renewal of an original license or driving privilege card with an expiration date provided under Subsection (8)(f).

(9) (a) In addition to the information required by Title 63, Chapter 46b, Administrative Procedures Act, for requests for agency action, each applicant shall ~~have a Utah residence address and each applicant shall~~:

(i) provide the applicant's:

(A) full legal name;

(B) birth date;

(C) gender;

(D) between July 1, 2002 and July 1, 2007, race in accordance with the categories established by the United States Census Bureau;

(E) (I) Social Security number;

(II) temporary identification number (ITIN) issued by the Internal Revenue Service for a person who does not qualify for a Social Security number; or

(III) (Aa) proof that the applicant is a citizen of a country other than the United States;

(Bb) proof that the applicant does not qualify for a Social Security number; and
(Cc) proof of legal presence in the United States, as authorized under federal law; and
(F) Utah residence address as documented by a form acceptable under rules made by the division under Section 53-3-104, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b);

(ii) provide a description of the applicant;
(iii) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;
(iv) state whether the applicant has ever had any license suspended, cancelled, revoked, disqualified, or denied in the last six years, or whether the applicant has ever had any license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;
(v) state whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Uniform Anatomical Gift Act, in compliance with Subsection (16);
(vi) provide all other information the division requires; and
(vii) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) Each applicant shall have a Utah residence address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

~~[(b)]~~ (c) The division shall maintain on its computerized records an applicant's:
(i) Social Security number;
(ii) temporary identification number (ITIN); or
(iii) other number assigned by the division if Subsection (9)(a)(i)(E)(III) applies.
~~[(c)]~~ (d) An applicant may not be denied a license for refusing to provide race information required under Subsection (9)(a)(i)(D).

(10) The division shall require proof of every applicant's name, birthdate, and birthplace by at least one of the following means:

- (a) current license certificate;
- (b) birth certificate;
- (c) Selective Service registration; or
- (d) other proof, including church records, family Bible notations, school records, or

other evidence considered acceptable by the division.

(11) When an applicant receives a license in another class, all previous license certificates shall be surrendered and canceled. However, a disqualified commercial license may not be canceled unless it expires before the new license certificate is issued.

(12) (a) When an application is received from a person previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(13) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license shall be accompanied by the additional fee or fees specified in Section 53-3-105.

(14) A person who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(15) A person who applies for an original license or renewal of a license agrees that the person's license is subject to any suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(16) (a) The indication of intent under Subsection (9)(a)(v) shall be authenticated by the licensee in accordance with division rule.

(b) (i) Notwithstanding Title 63, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-2, the names and addresses of all persons who under Subsection (9)(a)(v) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(17) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (9)(a)(v), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

Section 3. Section **53-3-407** is amended to read:

53-3-407. Qualifications for commercial driver license -- Fee -- Third parties may administer skills test.

(1) (a) As used in this section, "CDL driver training school" means a business enterprise conducted by an individual, association, partnership, or corporation that:

(i) educates and trains persons, either practically or theoretically, or both, to drive commercial motor vehicles; and

(ii) prepares an applicant for an examination under Subsection (2)(a)(ii) or (2)(b)(i)(B).

(b) A CDL driver training school may charge a consideration or tuition for the services provided under Subsection (1)(a).

~~[(1)-A]~~ (2) (a) Except as provided in Subsection (2)(b), a CDL may be issued only to a person who:

~~[(a)]~~ (i) is a resident of this state or qualifies as a nonresident under Section 53-3-409;

~~[(b)]~~ (ii) has passed a test of knowledge and skills for driving a commercial motor vehicle, that complies with minimum standards established by federal regulation in 49 C.F.R., Part 383, Subparts G and H; and

~~[(c)]~~ (iii) has complied with all requirements of 49 C.F.R., Part 383 and other applicable state laws and federal regulations.

(b) (i) A temporary CDL may be issued to a person who:

(A) is enrolled in a CDL driver training school located in Utah;

(B) has passed a test of knowledge and skills for driving a commercial motor vehicle, that complies with minimum standards established by federal regulation in 49 C.F.R. Part 383, Subparts G and H; and

(C) has complied with all requirements of 49 C.F.R. Part 383, Subparts G and H.

(ii) A temporary CDL issued under this Subsection (2)(b):

(A) is valid for 60 days; and

(B) may not be renewed or extended.

(iii) Except as provided in this section and Subsections 53-3-204(1)(a)(iv), 53-3-205(9)(a)(i)(F) and (9)(b), and 53-3-410(1)(c), the provisions, requirements, classes, endorsements, fees, restrictions, and sanctions under this code apply to a temporary CDL

issued under this Subsection (2)(b) in the same way as a commercial driver license issued under this part.

~~[(2)]~~ (3) Tests required under this section shall be prescribed and administered by the division.

~~[(3)]~~ (4) The division shall authorize a person, an agency of this or another state, an employer, a private driver training facility or other private institution, or a department, agency, or entity of local government to administer the skills test required under this section if:

(a) the test is the same test as prescribed by the division, and is administered in the same manner; and

(b) the party authorized under this section to administer the test has entered into an agreement with the state that complies with the requirements of 49 C.F.R., Part 383.75.

~~[(4)]~~ (5) A person who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

~~[(5)]~~ (6) A person authorized under this section to administer the skills test is not criminally or civilly liable for the administration of the test unless he administers the test in a grossly negligent manner.

~~[(6)]~~ (7) The division shall waive the skills test required under this section if it determines that the applicant meets the requirements of 49 C.F.R., Part 383.77.

Section 4. 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]~~;

~~(b)~~ current mailing ~~[and]~~ address;

~~(c)~~ Utah residential address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b);

~~[(b)]~~ (d) physical description, including sex, height, weight, and eye color;

~~[(c)]~~ (e) date of birth;

~~[(d)]~~ (f) Social Security number, unless the application is for a nonresident license;

276 [~~(e)~~] (g) a complete list of all states in which the applicant was issued a driver license
277 in the previous ten years; and

278 [~~(f)~~] (h) the applicant's signature.

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

281 (3) When the holder of a license under this part changes the holder's name, mailing
282 address, or residence, the holder shall make application for a duplicate license within 30 days
283 of the change.

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

Legislative Review Note
as of 1-18-06 10:34 AM

This legislation authorizes the Driver License Division to issue a temporary commercial driver license to a person who is a not a resident that is domiciled in Utah. This provision is in direct contradiction to current federal CDL regulations, which require that a commercial driver license must be issued by the applicant's state of domicile. 49 C.F.R. § 383.23. However, in a letter from the director of the Federal Motor Carrier Safety Administration (FMCSA) dated November 21, 2005, she indicated that the practice of issuing temporary commercial driver licenses to out-of-state students at truck driving schools poses no threat to safety, that FMCSA will hold off taking any action to withhold funding from a state due to noncompliance, and that FMCSA will be initiating rulemaking to address the state of domicile requirement.

Office of Legislative Research and General Counsel

Fiscal Note**Amendments to Commercial Driver License Provisions***25-Jan-06***Bill Number HB0140***10:36 AM*

State Impact

Provisions of this bill can be implemented with existing resources.

Individual and Business Impact

No significant fiscal impact.

Office of the Legislative Fiscal Analyst