

1 **COMMERCIAL DRIVER LICENSE**

2 **AMENDMENTS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Sheldon L. Killpack**

6 House Sponsor: James A. Dunnigan

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Uniform Commercial Driver License Act and the Utah Code of
11 Criminal Procedure by amending provisions related to diversions and CDL
12 disqualifications and nonresident CDL holder driver violations for pleas held in
13 abeyance.

14 **Highlighted Provisions:**

15 This bill:

16 ▶ provides that a person who holds or is required to hold a CDL is disqualified from
17 driving a commercial motor vehicle for not less than one year if convicted of a first
18 offense of failing to give aid or provide identification when involved in an accident
19 resulting in death or personal injury;

20 ▶ requires the Driver License Division, upon receiving notice of a plea in abeyance
21 agreement to a disqualifying offense, to disqualify, suspend, cancel, or revoke a
22 person's CDL for a conviction of that disqualifying offense, even if the charge is
23 subsequently reduced or dismissed;

24 ▶ requires the division to report a plea in abeyance to the CDLIS within ten days of
25 taking a licensing action;

26 ▶ provides that a plea in abeyance agreement may not be removed from a person's
27 driving record for ten years from the date of the plea in abeyance agreement, even if



28 the charge is subsequently reduced, dismissed, or expunged;

29 ▶ requires the division to notify the licensing state when the division receives a report
30 of a plea in abeyance of a nonresident holder of a CDL of a violation of a state law
31 or local ordinance relating to traffic control;

32 ▶ prohibits a magistrate from granting diversion for certain offenses; and

33 ▶ makes technical changes.

34 **Monies Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 None

38 **Utah Code Sections Affected:**

39 AMENDS:

40 **53-3-414**, as last amended by Chapters 2 and 220, Laws of Utah 2005

41 **53-3-419**, as renumbered and amended by Chapter 234, Laws of Utah 1993

42 **77-2-9**, as last amended by Chapters 88 and 101, Laws of Utah 1983



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

45 Section 1. Section **53-3-414** is amended to read:

46 **53-3-414. CDL disqualification or suspension -- Grounds and duration --**

47 **Procedure.**

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

51 (a) driving a motor vehicle while under the influence of alcohol, drugs, a controlled
52 substance, or more than one of these;

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

55 (c) leaving the scene of an accident involving a motor vehicle the person was driving;

56 (d) failing to give aid or provide identification when involved in an accident resulting
57 in death or personal injury;

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

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

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

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

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

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

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

74 (4) (a) Any driver disqualified for life from driving a commercial motor vehicle under
75 this section may apply to the division for reinstatement of the driver's CDL if the driver:

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

78 (A) meets the standards of the division; and

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

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

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

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

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

90 controlled substance.

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

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

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

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

98 (i) occur within three years of each other;

99 (ii) arise from separate incidents; and

100 (iii) involve the use or operation of a commercial motor vehicle.

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

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

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

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

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

113 (e) three years but not more than five years if, during any ten-year period, the driver is
114 convicted of two or more violations, in separate incidents, of an out-of-service order while
115 transporting hazardous materials required to be placarded or while operating a motor vehicle
116 designed to transport 16 or more passengers, including the driver.

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

121 state.

122 (9) A driver of a commercial motor vehicle who is convicted of violating a
123 railroad-highway grade crossing provision under Section 41-6a-1205, while driving a
124 commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period
125 not less than:

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

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

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

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

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

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

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

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

142 (ii) applicant provided incorrect or incomplete information to the division;

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

144 (iv) driver no longer meets the fitness standards required to obtain a CDL; or

145 (v) driver poses an imminent hazard.

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

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

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

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

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

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

157 (i) occur within three years of each other;

158 (ii) arise from separate incidents; and

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

161 (13) (a) Upon receiving a notice that a person has entered into a plea of guilty or no
162 contest to a violation of a disqualifying offense described in this section which plea is held in
163 abeyance pursuant to a plea in abeyance agreement, the division shall disqualify, suspend,
164 cancel, or revoke the person's CDL for the period required under this section for a conviction of
165 that disqualifying offense, even if the charge has been subsequently reduced or dismissed in
166 accordance with the plea in abeyance agreement.

167 (b) The division shall report the plea in abeyance to the CDLIS within ten days of
168 taking the action under Subsection (13)(a).

169 (c) A plea which is held in abeyance may not be removed from a person's driving
170 record for ten years from the date of the plea in abeyance agreement, even if the charge is:

171 (i) reduced or dismissed in accordance with the plea in abeyance agreement; or

172 (ii) expunged under Section 77-18-11.

173 Section 2. Section **53-3-419** is amended to read:

174 **53-3-419. Nonresident driver violations reported to resident state.**

175 (1) When the division receives a report of the conviction or plea in abeyance of a
176 nonresident holder of a CDL for a violation of a state law or local ordinance relating to traffic
177 control, the division shall notify the driver licensing authority in the licensing state within ten
178 days of receipt of the report.

179 (2) This section does not apply to parking violations.

180 Section 3. Section **77-2-9** is amended to read:

181 **77-2-9. Offenses ineligible for diversion.**

182 Diversion may not be granted by a magistrate for:

- 183 (1) a capital felony [or];
- 184 (2) a felony in the first degree [or in];
- 185 (3) any case involving a sexual offense against a victim who is under the age of 14 [or
- 186 for];
- 187 (4) any motor vehicle related offense involving alcohol or drugs[-];
- 188 (5) any case involving using a motor vehicle in the commission of a felony;
- 189 (6) driving a motor vehicle or commercial motor vehicle on a revoked or suspended
- 190 license; or
- 191 (7) any case involving operating a commercial motor vehicle in a negligent manner
- 192 causing the death of another including the offenses of:
- 193 (a) manslaughter under Section 76-5-205; or
- 194 (b) negligent homicide under Section 76-5-206.

Legislative Review Note
as of 10-20-05 9:16 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

Interim Committee Note
as of 12-21-05 6:49 AM

The Transportation Interim Committee recommended this bill.