

Senator Sheldon L. Killpack proposes the following substitute bill:

COMMERCIAL DRIVER LICENSE

AMENDMENTS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sheldon L. Killpack

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ provides that a court record of conviction or plea held in abeyance that is forwarded to the Driver License Division shall include certain information;

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

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

- ▶ requires the division to report a plea in abeyance to the CDLIS within ten days of



26 taking a licensing action;

27 ▶ provides that a plea in abeyance agreement may not be removed from a person's
28 driving record for ten years from the date of the plea in abeyance agreement, even if
29 the charge is subsequently reduced, dismissed, or expunged;

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

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

34 ▶ makes technical changes.

35 **Monies Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 None

39 **Utah Code Sections Affected:**

40 AMENDS:

41 **53-3-218**, as last amended by Chapter 2, Laws of Utah 2005

42 **53-3-414**, as last amended by Chapters 2 and 220, Laws of Utah 2005

43 **53-3-419**, as renumbered and amended by Chapter 234, Laws of Utah 1993

44 **77-2-9**, as last amended by Chapters 88 and 101, Laws of Utah 1983



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

47 Section 1. Section **53-3-218** is amended to read:

48 **53-3-218. Court to report convictions and may recommend suspension of license**

49 **-- Severity of speeding violation defined.**

50 (1) As used in this section, "conviction" means conviction by the court of first
51 impression or final administrative determination in an administrative traffic proceeding.

52 (2) (a) A court having jurisdiction over offenses committed under this chapter or any
53 other law of this state, or under any municipal ordinance regulating driving motor vehicles on
54 highways or driving motorboats on the water, shall forward to the division within ten days, an
55 abstract of the court record of the conviction or plea held in abeyance of any person in the court
56 for a reportable traffic or motorboating violation of any laws or ordinances, and may

57 recommend the suspension of the license of the person convicted.

58 (b) When the division receives a court record of a conviction or plea in abeyance for a
59 motorboat violation, the division may only take action against a person's driver license if the
60 motorboat violation is for a violation of Title 41, Chapter 6a, Part 5, Driving Under the
61 Influence and Reckless Driving.

62 (3) The abstract shall be made in the form prescribed by the division and shall include:

63 (a) the name, date of birth, and address of the party charged;

64 (b) the license certificate number of [~~his license certificate~~] the party charged, if any;

65 (c) the registration number of the motor vehicle or motorboat involved;

66 (d) whether the motor vehicle was a commercial motor vehicle;

67 (e) whether the motor vehicle carried hazardous materials;

68 (f) whether the motor vehicle carried 16 or more occupants;

69 (g) whether the driver presented a commercial driver license;

70 [~~(f)~~] (h) the nature of the offense;

71 (i) whether the offense involved an accident;

72 (j) the driver's blood alcohol content, if applicable;

73 (k) if the offense involved a speeding violation:

74 (i) the posted speed limit;

75 (ii) the actual speed; and

76 (iii) whether the speeding violation occurred on a highway that is part of the interstate
77 system as defined in Section 72-1-102;

78 [~~(g)~~] (l) the date of the hearing;

79 [~~(h)~~] (m) the plea;

80 [~~(i)~~] (n) the judgment or whether bail was forfeited; and

81 [~~(j)~~] (o) the severity of the violation, which shall be graded by the court as "minimum,"
82 "intermediate," or "maximum" as established in accordance with Subsection 53-3-221(4).

83 (4) When a convicted person secures a judgment of acquittal or reversal in any
84 appellate court after conviction in the court of first impression, the division shall reinstate his
85 license immediately upon receipt of a certified copy of the judgment of acquittal or reversal.

86 Section 2. Section **53-3-414** is amended to read:

87 **53-3-414. CDL disqualification or suspension -- Grounds and duration --**

88 **Procedure.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

140 (ii) arise from separate incidents; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

181 to believe that the:

- 182 (i) CDL was issued by the division through error or fraud;
- 183 (ii) applicant provided incorrect or incomplete information to the division;
- 184 (iii) applicant cheated on any part of a CDL examination;
- 185 (iv) driver no longer meets the fitness standards required to obtain a CDL; or
- 186 (v) driver poses an imminent hazard.

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

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

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

- 193 (i) 60 days from driving a commercial motor vehicle if the driver is convicted of two
194 serious traffic violations; and
- 195 (ii) 120 days if the driver is convicted of three or more serious traffic violations.

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

- 198 (i) occur within three years of each other;
- 199 (ii) arise from separate incidents; and
- 200 (iii) result in a denial, suspension, cancellation, or revocation of the non-CDL driving
201 privilege from at least one of the violations.

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

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

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

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

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

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

215 **53-3-419. Nonresident driver violations reported to resident state.**

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

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

221 Section 4. Section **77-2-9** is amended to read:

222 **77-2-9. Offenses ineligible for diversion.**

223 Diversion may not be granted by a magistrate for:

224 (1) a capital felony [~~or~~];

225 (2) a felony in the first degree [~~or in~~];

226 (3) any case involving a sexual offense against a victim who is under the age of 14 [~~or~~
227 for];

228 (4) any motor vehicle related offense involving alcohol or drugs[-];

229 (5) any case involving using a motor vehicle in the commission of a felony;

230 (6) driving a motor vehicle or commercial motor vehicle on a revoked or suspended
231 license; or

232 (7) any case involving operating a commercial motor vehicle in a negligent manner
233 causing the death of another including the offenses of:

234 (a) manslaughter under Section 76-5-205; or

235 (b) negligent homicide under Section 76-5-206.

State Impact

It is estimated that the Courts will require a one-time General Fund appropriation of \$4,000 in FY 2007 for computer system programming costs to implement provisions of this bill.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
General Fund	\$4,000	\$0	\$0	\$0
TOTAL	\$4,000	\$0	\$0	\$0

Individual and Business Impact

No significant fiscal impact.
