

30 ▶ provides that a person that engages in the transfer, distribution, or furnishing of
31 certain precursor chemicals may not accept a driving privilege card as proof of
32 identification from a purchaser that purchases certain controlled substance
33 precursors;

34 ▶ provides that a dealer of firearms may not accept a driving privilege card for the
35 purpose of establishing personal identification and residence to receive a firearm; and

36 ▶ makes technical changes.

37 **Monies Appropriated in this Bill:**

38 None

39 **Other Special Clauses:**

40 This bill takes effect on July 1, 2008.

41 **Utah Code Sections Affected:**

42 AMENDS:

43 **32A-1-105**, as last amended by Laws of Utah 2007, Chapter 284

44 **32A-1-304**, as last amended by Laws of Utah 2002, Chapter 161

45 **41-1a-110**, as last amended by Laws of Utah 2000, Chapter 345

46 **41-1a-1220**, as last amended by Laws of Utah 2000, Chapter 345

47 **41-12a-806**, as last amended by Laws of Utah 2000, Chapter 345

48 **53-3-102 (Effective 07/01/08)**, as last amended by Laws of Utah 2007, Chapter 338

49 **53-3-207**, as last amended by Laws of Utah 2007, Chapters 60 and 329

50 **53-3-221 (Effective 07/01/08)**, as last amended by Laws of Utah 2007, Chapters 53 and
51 338

52 **58-37c-10**, as repealed and reenacted by Laws of Utah 1992, Chapter 155

53 **76-10-526**, as last amended by Laws of Utah 2004, Chapter 360



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

56 Section 1. Section **32A-1-105** is amended to read:

57 **32A-1-105. Definitions.**

58 As used in this title:

59 (1) "Airport lounge" means a place of business licensed to sell alcoholic beverages, at
60 retail, for consumption on its premises located at an international airport with a United States
61 Customs office on the premises of the international airport.

62 (2) "Alcoholic beverages" means "beer" and "liquor" as the terms are defined in this
63 section.

64 (3) (a) "Alcoholic products" means all products that:

65 (i) contain:

66 (A) at least 63/100 of 1% of alcohol by volume; or

67 (B) at least 1/2 of 1% by weight; and

68 (ii) are obtained by fermentation, infusion, decoction, brewing, distillation, or any other
69 process that uses any liquid or combinations of liquids, whether drinkable or not, to create
70 alcohol in an amount greater than the amount prescribed in Subsection (3)(a)(i).

71 (b) "Alcoholic products" does not include any of the following common items that
72 otherwise come within the definition of alcoholic products:

73 (i) extracts;

74 (ii) vinegars;

75 (iii) ciders;

76 (iv) essences;

77 (v) tinctures;

78 (vi) food preparations; or

79 (vii) over-the-counter drugs and medicines.

80 (4) "Bar" means a counter or similar structure:

81 (a) at which alcoholic beverages are:

82 (i) stored; or

83 (ii) dispensed; or

84 (b) from which alcoholic beverages are served.

85 (5) (a) "Beer" means any product that:

86 (i) contains 63/100 of 1% of alcohol by volume or 1/2 of 1% of alcohol by weight, but
87 not more than 4% of alcohol by volume or 3.2% by weight; and

88 (ii) is obtained by fermentation, infusion, or decoction of any malted grain.

89 (b) Beer may or may not contain hops or other vegetable products.

90 (c) Beer includes a product that:

91 (i) contains alcohol in the percentages described in Subsection (5)(a); and

92 (ii) is referred to as:

93 (A) malt liquor;

94 (B) malted beverages; or

95 (C) malt coolers.

96 (6) (a) "Beer retailer" means a business that is:

97 (i) engaged, primarily or incidentally, in the retail sale of beer to patrons, whether for
98 consumption on or off the business premises; and

99 (ii) licensed to sell beer by:

100 (A) the commission;

101 (B) a local authority; or

102 (C) both the commission and a local authority.

103 (b) (i) "Off-premise beer retailer" means a business that is engaged in the retail sale of
104 beer to patrons for consumption off the beer retailer's premises.

105 (ii) "Off-premise beer retailer" does not include an on-premise beer retailer.

106 (c) "On-premise beer retailer" means a business that is engaged in the sale of beer to
107 patrons for consumption on the beer retailer's premises, regardless of whether the business sells
108 beer for consumption off the beer retailer's premises.

109 (7) "Billboard" means any public display used to advertise including:

110 (a) a light device;

111 (b) a painting;

112 (c) a drawing;

113 (d) a poster;

- 114 (e) a sign;
- 115 (f) a signboard; or
- 116 (g) a scoreboard.
- 117 (8) "Brewer" means any person engaged in manufacturing beer.
- 118 (9) "Cash bar" means the service of alcoholic beverages:
- 119 (a) at:
- 120 (i) a banquet; or
- 121 (ii) a temporary event for which a permit is issued under this title; and
- 122 (b) if an attendee at the banquet or temporary event is charged for the alcoholic
- 123 beverage.
- 124 (10) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
- 125 a bus company to a group of persons pursuant to a common purpose:
- 126 (a) under a single contract;
- 127 (b) at a fixed charge in accordance with the bus company's tariff; and
- 128 (c) for the purpose of giving the group of persons the exclusive use of the bus and a
- 129 driver to travel together to a specified destination or destinations.
- 130 (11) "Church" means a building:
- 131 (a) set apart for the purpose of worship;
- 132 (b) in which religious services are held;
- 133 (c) with which clergy is associated; and
- 134 (d) which is tax exempt under the laws of this state.
- 135 (12) "Club" and "private club" means any of the following organized primarily for the
- 136 benefit of its members:
- 137 (a) a social club;
- 138 (b) a recreational association;
- 139 (c) a fraternal association;
- 140 (d) an athletic association; or
- 141 (e) a kindred association.

- 142 (13) "Commission" means the Alcoholic Beverage Control Commission.
- 143 (14) "Department" means the Department of Alcoholic Beverage Control.
- 144 (15) "Distressed merchandise" means any alcoholic beverage in the possession of the
145 department that is saleable, but for some reason is unappealing to the public.
- 146 (16) "Guest" means a person accompanied by an active member or visitor of a club who
147 enjoys only those privileges derived from the host for the duration of the visit to the club.
- 148 (17) (a) "Heavy beer" means any product that:
- 149 (i) contains more than 4% alcohol by volume; and
- 150 (ii) is obtained by fermentation, infusion, or decoction of any malted grain.
- 151 (b) "Heavy beer" is considered "liquor" for the purposes of this title.
- 152 (18) "Hosted bar" means the service of alcoholic beverages:
- 153 (a) without charge; and
- 154 (b) at a:
- 155 (i) banquet; or
- 156 (ii) privately hosted event.
- 157 (19) "Identification card" means the identification card issued under Title 53, Chapter 3,
158 Part 8, Identification Card Act.
- 159 (20) "Interdicted person" means a person to whom the sale, gift, or provision of an
160 alcoholic beverage is prohibited by:
- 161 (a) law; or
- 162 (b) court order.
- 163 (21) "Intoxicated" means that to a degree that is unlawful under Section 76-9-701 a
164 person is under the influence of:
- 165 (a) an alcoholic beverage;
- 166 (b) a controlled substance;
- 167 (c) a substance having the property of releasing toxic vapors; or
- 168 (d) a combination of Subsections (21)(a) through (c).
- 169 (22) "Licensee" means any person issued a license by the commission to sell,

170 manufacture, store, or allow consumption of alcoholic beverages on premises owned or
171 controlled by the person.

172 (23) "Limousine" means any motor vehicle licensed by the state or a local authority,
173 other than a bus or taxicab:

174 (a) in which the driver and passengers are separated by a partition, glass, or other
175 barrier; and

176 (b) that is provided by a company to an individual or individuals at a fixed charge in
177 accordance with the company's tariff for the purpose of giving the individual or individuals the
178 exclusive use of the limousine and a driver to travel to a specified destination or destinations.

179 (24) (a) "Liquor" means alcohol, or any alcoholic, spirituous, vinous, fermented, malt,
180 or other liquid, or combination of liquids, a part of which is spirituous, vinous, or fermented,
181 and all other drinks, or drinkable liquids that contain more than 1/2 of 1% of alcohol by volume
182 and is suitable to use for beverage purposes.

183 (b) "Liquor" does not include any beverage defined as a beer, malt liquor, or malted
184 beverage that has an alcohol content of less than 4% alcohol by volume.

185 (25) "Local authority" means:

186 (a) the governing body of the county if the premises are located in an unincorporated
187 area of a county; or

188 (b) the governing body of the city or town if the premises are located in an incorporated
189 city or a town.

190 (26) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or
191 otherwise make an alcoholic product for personal use or for sale or distribution to others.

192 (27) "Member" means a person who, after paying regular dues, has full privileges of a
193 club under this title.

194 (28) (a) "Military installation" means a base, air field, camp, post, station, yard, center,
195 or homeport facility for any ship:

196 (i) (A) under the control of the United States Department of Defense; or

197 (B) of the National Guard;

- 198 (ii) that is located within the state; and
199 (iii) including any leased facility.
- 200 (b) "Military installation" does not include any facility used primarily for:
201 (i) civil works;
202 (ii) rivers and harbors projects; or
203 (iii) flood control projects.
- 204 (29) "Minor" means any person under the age of 21 years.
- 205 (30) "Nude," "nudity," or "state of nudity" means:
206 (a) the appearance of:
207 (i) the nipple or areola of a female human breast;
208 (ii) a human genital;
209 (iii) a human pubic area; or
210 (iv) a human anus;
211 (b) a state of dress that fails to opaquely cover:
212 (i) the nipple or areola of a female human breast;
213 (ii) a human genital;
214 (iii) a human pubic area; or
215 (iv) a human anus.
- 216 (31) "Outlet" means a location other than a state store or package agency where
217 alcoholic beverages are sold pursuant to a license issued by the commission.
- 218 (32) "Package" means any of the following containing liquor:
219 (a) a container;
220 (b) a bottle;
221 (c) a vessel; or
222 (d) other receptacle.
- 223 (33) "Package agency" means a retail liquor location operated under a contractual
224 agreement with the department, by a person other than the state, who is authorized by the
225 commission to sell package liquor for consumption off the premises of the agency.

226 (34) "Package agent" means any person permitted by the commission to operate a
227 package agency pursuant to a contractual agreement with the department to sell liquor from
228 premises that the package agent shall provide and maintain.

229 (35) "Permittee" means any person issued a permit by the commission to perform acts
230 or exercise privileges as specifically granted in the permit.

231 (36) "Person" means any individual, partnership, firm, corporation, limited liability
232 company, association, business trust, or other form of business enterprise, including a receiver
233 or trustee, and the plural as well as the singular number, unless the intent to give a more limited
234 meaning is disclosed by the context.

235 (37) "Premises" means any building, enclosure, room, or equipment used in connection
236 with the sale, storage, service, manufacture, distribution, or consumption of alcoholic products,
237 unless otherwise defined in this title or in the rules adopted by the commission.

238 (38) "Prescription" means a writing in legal form, signed by a physician or dentist and
239 given to a patient for obtaining an alcoholic beverage for medicinal purposes only.

240 (39) (a) "Privately hosted event" or "private social function" means a specific social,
241 business, or recreational event for which an entire room, area, or hall has been leased or rented,
242 in advance by an identified group, and the event or function is limited in attendance to people
243 who have been specifically designated and their guests.

244 (b) "Privately hosted event" and "private social function" does not include events or
245 functions to which the general public is invited, whether for an admission fee or not.

246 (40) (a) "Proof of age" means:

247 [~~(a)~~] (i) an identification card;

248 [~~(b)~~] (ii) an identification that:

249 [~~(i)~~] (A) is substantially similar to an identification card;

250 [~~(ii)~~] (B) is issued in accordance with the laws of a state other than Utah in which the
251 identification is issued;

252 [~~(iii)~~] (C) includes date of birth; and

253 [~~(iv)~~] (D) has a picture affixed;

254 ~~[(e)]~~ (iii) a valid driver license certificate that:
255 ~~[(i)]~~ (A) includes date of birth;
256 ~~[(ii)]~~ (B) has a picture affixed; and
257 ~~[(iii)]~~ (C) is issued:
258 ~~[(A)]~~ (I) under Title 53, Chapter 3, Uniform Driver License Act; or
259 ~~[(B)]~~ (II) in accordance with the laws of the state in which it is issued;
260 ~~[(d)]~~ (iv) a military identification card that:
261 ~~[(i)]~~ (A) includes date of birth; and
262 ~~[(ii)]~~ (B) has a picture affixed; or
263 ~~[(e)]~~ (v) a valid passport.

264 (b) "Proof of age" does not include a driving privilege card issued in accordance with
265 Section 53-3-207.

266 (41) (a) "Public building" means any building or permanent structure owned or leased
267 by the state, a county, or local government entity that is used for:

- 268 (i) public education;
- 269 (ii) transacting public business; or
- 270 (iii) regularly conducting government activities.

271 (b) "Public building" does not mean or refer to any building owned by the state or a
272 county or local government entity when the building is used by anyone, in whole or in part, for
273 proprietary functions.

274 (42) "Representative" means an individual who is compensated by salary, commission,
275 or any other means for representing and selling the alcoholic beverage products of a
276 manufacturer, supplier, or importer of liquor, wine, or heavy beer.

277 (43) "Residence" means the person's principal place of abode within Utah.

278 (44) "Restaurant" means any business establishment:

- 279 (a) where a variety of foods is prepared and complete meals are served to the general
280 public;
- 281 (b) located on a premises having adequate culinary fixtures for food preparation and

282 dining accommodations; and

283 (c) that is engaged primarily in serving meals to the general public.

284 (45) "Retailer" means any person engaged in the sale or distribution of alcoholic
285 beverages to the consumer.

286 (46) (a) "Sample" includes:

287 (i) a department sample; and

288 (ii) an industry representative sample.

289 (b) "Department sample" means liquor, wine, and heavy beer that has been placed in the
290 possession of the department for testing, analysis, and sampling.

291 (c) "Industry representative sample" means liquor, wine, and heavy beer that has been
292 placed in the possession of the department for testing, analysis, and sampling by local industry
293 representatives on the premises of the department to educate the local industry representatives
294 of the quality and characteristics of the product.

295 (47) (a) "School" means any building used primarily for the general education of
296 minors.

297 (b) "School" does not include:

298 (i) a nursery school;

299 (ii) an infant day care center; or

300 (iii) a trade or technical school.

301 (48) "Sell," "sale," and "to sell" means any transaction, exchange, or barter whereby, for
302 any consideration, an alcoholic beverage is either directly or indirectly transferred, solicited,
303 ordered, delivered for value, or by any means or under any pretext is promised or obtained,
304 whether done by a person as a principal, proprietor, or as an agent, servant, or employee, unless
305 otherwise defined in this title or the rules made by the commission.

306 (49) "Seminude," "seminudity," or "state of seminudity" means a state of dress in which
307 opaque clothing covers no more than:

308 (a) the nipple and areola of the female human breast in a shape and color other than the
309 natural shape and color of the nipple and areola; and

- 310 (b) the human genitals, pubic area, and anus:
- 311 (i) with no less than the following at its widest point:
- 312 (A) four inches coverage width in the front of the human body; and
- 313 (B) five inches coverage width in the back of the human body; and
- 314 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 315 (50) "Sexually oriented entertainer" means a person who while in a state of seminudity
- 316 appears at or performs:
- 317 (a) for the entertainment of one or more patrons;
- 318 (b) on the premises of:
- 319 (i) a class D private club as defined in Subsection 32A-5-101(3); or
- 320 (ii) a tavern;
- 321 (c) on behalf of or at the request of the licensee described in Subsection (50)(b);
- 322 (d) on a contractual or voluntary basis; and
- 323 (e) whether or not the person is designated:
- 324 (i) an employee of the licensee described in Subsection (50)(b);
- 325 (ii) an independent contractor of the licensee described in Subsection (50)(b);
- 326 (iii) an agent of the licensee described in Subsection (50)(b); or
- 327 (iv) otherwise of the licensee described in Subsection (50)(b).
- 328 (51) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer
- 329 and heavy beer per year.
- 330 (52) (a) "Spirituous liquor" means liquor that is distilled.
- 331 (b) "Spirituous liquor" includes an alcohol product defined as a "distilled spirit" by 27
- 332 U.S.C. 211 and 27 C.F.R. Sections 5.11 through 5.23.
- 333 (53) (a) "State label" means the official label designated by the commission affixed to all
- 334 liquor containers sold in the state.
- 335 (b) "State label" includes the department identification mark and inventory control
- 336 number.
- 337 (54) (a) "State store" means a facility for the sale of package liquor:

- 338 (i) located on premises owned or leased by the state; and
- 339 (ii) operated by state employees.
- 340 (b) "State store" does not apply to any:
- 341 (i) licensee;
- 342 (ii) permittee; or
- 343 (iii) package agency.
- 344 (55) "Supplier" means any person selling alcoholic beverages to the department.
- 345 (56) (a) "Tavern" means any business establishment that is:
- 346 (i) engaged primarily in the retail sale of beer to public patrons for consumption on the
- 347 establishment's premises; and
- 348 (ii) licensed to sell beer under Chapter 10, Part 2, On-Premise Beer Retailer Licenses.
- 349 (b) "Tavern" includes the following if the revenue from the sale of beer exceeds the
- 350 revenue of the sale of food, although food need not be sold in the establishment:
- 351 (i) a beer bar;
- 352 (ii) a parlor;
- 353 (iii) a lounge;
- 354 (iv) a cabaret; or
- 355 (v) a nightclub.
- 356 (57) "Temporary domicile" means the principal place of abode within Utah of a person
- 357 who does not have a present intention to continue residency within Utah permanently or
- 358 indefinitely.
- 359 (58) "Unsaleable liquor merchandise" means merchandise that:
- 360 (a) is unsaleable because the merchandise is:
- 361 (i) unlabeled;
- 362 (ii) leaky;
- 363 (iii) damaged;
- 364 (iv) difficult to open; or
- 365 (v) partly filled;

- 366 (b) is in a container:
- 367 (i) having faded labels or defective caps or corks;
- 368 (ii) in which the contents are:
- 369 (A) cloudy;
- 370 (B) spoiled; or
- 371 (C) chemically determined to be impure; or
- 372 (iii) that contains:
- 373 (A) sediment; or
- 374 (B) any foreign substance; or
- 375 (c) is otherwise considered by the department as unfit for sale.

376 (59) "Visitor" means an individual that in accordance with Section 32A-5-107 holds
377 limited privileges in a private club by virtue of a visitor card.

378 (60) "Warehouser" means any person, other than a licensed manufacturer, engaged in
379 the importation for sale, storage, or distribution of liquor regardless of amount.

380 (61) "Wholesaler" means any person engaged in the importation for sale, or in the sale
381 of beer in wholesale or jobbing quantities to retailers, other than a small brewer selling beer
382 manufactured by that brewer.

383 (62) (a) "Wine" means any alcoholic beverage obtained by the fermentation of the
384 natural sugar content of fruits, plants, honey, or milk, or any other like substance, whether or
385 not other ingredients are added.

386 (b) "Wine" is considered "liquor" for purposes of this title, except as otherwise
387 provided in this title.

388 Section 2. Section **32A-1-304** is amended to read:

389 **32A-1-304. Acceptance of identification -- Evidence.**

390 (1) A person authorized by law to sell or otherwise handle alcoholic beverages or
391 products may accept as evidence of the legal age of the person presenting the following:

- 392 (a) proof of age; or
- 393 (b) if a statement of age is required under Subsection 32A-1-303(1):

394 (i) proof of age; and
395 (ii) a statement of age obtained under Section 32A-1-303.
396 (2) A statement of age described in Section 32A-1-303, if properly completed, signed,
397 and filed in accordance with Section 32A-1-303, may be offered as a defense in any case where
398 there is at issue the legality of:

399 (a) selling or otherwise furnishing an alcoholic beverage or product to the person who
400 signed the statement of age; or

401 (b) allowing the person who signed the statement of age to be employed in any
402 employment that under this title may not be obtained by a minor.

403 (3) A person authorized by law to sell or otherwise handle alcoholic beverages or
404 products may not accept a driving privilege card issued in accordance with Section 53-3-207 as
405 evidence of the legal age of the person.

406 [~~3~~] (4) A person may not be subject to a penalty for a violation of this part if it is
407 proved to the commission or the court hearing the matter that the person charged with the
408 violation acted in good faith.

409 Section 3. Section **41-1a-110** is amended to read:

410 **41-1a-110. Authority of division to suspend or revoke registration, certificate of**
411 **title, license plate, or permit.**

412 (1) Except as provided in Subsections (3) and (4), the division may suspend or revoke a
413 registration, certificate of title, license plate, or permit if:

414 (a) the division is satisfied that a registration, certificate of title, license plate, or permit
415 was fraudulently procured or erroneously issued;

416 (b) the division determines that a registered vehicle is mechanically unfit or unsafe to be
417 operated or moved upon the highways;

418 (c) a registered vehicle has been dismantled;

419 (d) the division determines that the required fee has not been paid and the fee is not paid
420 upon reasonable notice and demand;

421 (e) a registration decal, license plate, or permit is knowingly displayed upon a vehicle

422 other than the one for which issued;

423 (f) the division determines that the owner has committed any offense under this chapter
424 involving the registration, certificate of title, registration card, license plate, registration decal,
425 or permit; or

426 (g) the division receives notification by the Department of Transportation that the
427 owner has committed any offence under Title 72, Chapter 9, Motor Carrier Safety Act.

428 (2) (a) The division shall revoke the registration of a vehicle if the division receives
429 notification by the:

430 [~~(a)~~] (i) Department of Public Safety that a person:

431 [~~(i)~~] (A) has been convicted of operating a registered motor vehicle in violation of
432 Section 41-12a-301 or 41-12a-303.2; or

433 [~~(i)~~] (B) is under an administrative action taken by the Department of Public Safety for
434 operating a registered motor vehicle in violation of Section 41-12a-301; or

435 [~~(b)~~] (ii) designated agent that the owner of a motor vehicle:

436 [~~(i)~~] (A) has failed to provide satisfactory proof of owner's or operator's security to the
437 designated agent after the second notice provided under Section 41-12a-804; or

438 [~~(i)~~] (B) provided a false or fraudulent statement to the designated agent.

439 (b) The division shall notify the Driver License Division if the division revokes the
440 registration of a vehicle under Subsection (2)(a)(ii)(A).

441 (3) The division may not suspend or revoke the registration of a vessel or outboard
442 motor unless authorized under Section 73-18-7.3.

443 (4) The division may not suspend or revoke the registration of an off-highway vehicle
444 unless authorized under Section 41-22-17.

445 (5) The division shall charge a registration reinstatement fee under Section 41-1a-1220,
446 if the registration is revoked under Subsection (1)(f).

447 Section 4. Section **41-1a-1220** is amended to read:

448 **41-1a-1220. Registration reinstatement fee.**

449 (1) At the time application is made for reinstatement or renewal of registration of a

450 motor vehicle after a revocation of the registration under Subsection 41-1a-110(2), the
451 applicant shall pay a registration reinstatement fee of \$100.

452 (2) The fee imposed under Subsection (1):

453 (a) is in addition to any other fee imposed under this chapter; and

454 (b) shall be deposited in the Uninsured Motorist Identification Restricted Account
455 created in Section 41-12a-806.

456 (3) The division shall waive the registration reinstatement fee imposed under this
457 section if:

458 (a) the registration was revoked under Subsection 41-1a-110(2)~~(b)~~(a)(ii); and

459 (b) a person had owner's or operator's security in effect for the vehicle at the time of the
460 alleged violation or on the day following the time limit provided after the second notice under
461 Subsection 41-12a-804(2).

462 Section 5. Section **41-12a-806** is amended to read:

463 **41-12a-806. Restricted Account -- Creation -- Funding -- Interest -- Purposes.**

464 (1) There is created within the Transportation Fund a restricted account known as the
465 "Uninsured Motorist Identification Restricted Account."

466 (2) The account consists of monies generated from the following revenue sources:

467 (a) monies received by the state under Section 41-1a-1218, the uninsured motorist
468 identification fee;

469 (b) monies received by the state under Section 41-1a-1220; and

470 (c) appropriations made to the account by the Legislature.

471 (3) (a) The account shall earn interest.

472 (b) All interest earned on account monies shall be deposited into the account.

473 (4) Monies shall be appropriated from the account by the Legislature to:

474 (a) the department to fund the contract with the designated agent;

475 (b) the department to offset the costs to state and local law enforcement agencies of
476 using the information for the purposes authorized under this part; and

477 (c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking

478 and reinstating vehicle registrations under Subsection 41-1a-110(2)(~~b~~)(a)(ii).

479 Section 6. Section **53-3-102 (Effective 07/01/08)** is amended to read:

480 **53-3-102 (Effective 07/01/08). Definitions.**

481 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

509 (iii) firefighting and emergency vehicles; and

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

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

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

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

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

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

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

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

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

525 (9) "Disqualification" means either:

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

528 (b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386,
529 that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part
530 391; or

531 (c) the loss of qualification that automatically follows conviction of an offense listed in
532 49 C.F.R. Part 383.51.

533 (10) "Division" means the Driver License Division of the department created in Section

534 53-3-103.

535 (11) "Drive" means:

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

537 (b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections

538 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within
539 the state.

540 (12) (a) "Driver" means any person who drives, or is in actual physical control of a
541 motor vehicle in any location open to the general public for purposes of vehicular traffic.

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

544 (13) "Driving privilege card" means the evidence of the privilege granted and issued
545 under this chapter to drive a motor vehicle to a person whose privilege was obtained without
546 using a Social Security number.

547 [~~(13)~~] (14) "Extension" means a renewal completed in a manner specified by the
548 division.

549 [~~(14)~~] (15) "Farm tractor" means every motor vehicle designed and used primarily as a
550 farm implement for drawing plows, mowing machines, and other implements of husbandry.

551 [~~(15)~~] (16) "Highway" means the entire width between property lines of every way or
552 place of any nature when any part of it is open to the use of the public, as a matter of right, for
553 traffic.

554 [~~(16)~~] (17) "License" means the privilege to drive a motor vehicle.

555 [~~(17)~~] (18) "License certificate" means the evidence of the privilege issued under this
556 chapter to drive a motor vehicle.

557 [~~(18)~~] (19) "Motorboat" has the same meaning as provided under Section 73-18-2.

558 [~~(19)~~] (20) "Motorcycle" means every motor vehicle, other than a tractor, having a seat
559 or saddle for the use of the rider and designed to travel with not more than three wheels in
560 contact with the ground.

561 [~~(20)~~] (21) "Office of Recovery Services" means the Office of Recovery Services,

562 created in Section 62A-11-102.

563 ~~[(21)]~~ (22) (a) "Owner" means a person other than a lienholder having an interest in the
564 property or title to a vehicle.

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

567 ~~[(22)]~~ (23) "Renewal" means to validate a license certificate so that it expires at a later
568 date.

569 ~~[(23)]~~ (24) "Reportable violation" means an offense required to be reported to the
570 division as determined by the division and includes those offenses against which points are
571 assessed under Section 53-3-221.

572 ~~[(24)]~~ (25) (a) "Resident" means an individual who:

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

576 (ii) engages in a trade, profession, or occupation in this state, or who accepts
577 employment in other than seasonal work in this state, and who does not commute into the state;

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

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

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

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

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

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

590 (iv) an immediate family member who resides with or a household member of a person
591 listed in Subsections ~~[(24)]~~ (25)(b)(i) through (iii).

592 ~~[(25)]~~ (26) "Revocation" means the termination by action of the division of a licensee's
593 privilege to drive a motor vehicle.

594 ~~[(26)]~~ (27) (a) "School bus" means a commercial motor vehicle used to transport
595 pre-primary, primary, or secondary school students to and from home and school, or to and
596 from school sponsored events.

597 (b) "School bus" does not include a bus used as a common carrier as defined in Section
598 59-12-102.

599 ~~[(27)]~~ (28) "Suspension" means the temporary withdrawal by action of the division of a
600 licensee's privilege to drive a motor vehicle.

601 ~~[(28)]~~ (29) "Taxicab" means any class D motor vehicle transporting any number of
602 passengers for hire and that is subject to state or federal regulation as a taxi.

603 Section 7. Section **53-3-207** is amended to read:

604 **53-3-207. License certificates or driving privilege cards issued to drivers by class**
605 **of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary**
606 **licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.**

607 (1) As used in this section:

608 (a) "driving privilege" means the privilege granted under this chapter to drive a motor
609 vehicle;

610 ~~[(b) "driving privilege card" means the evidence of the privilege granted and issued
611 under this chapter to drive a motor vehicle;]~~

612 ~~[(c)]~~ (b) "governmental entity" means the state and its political subdivisions as defined
613 in this Subsection (1);

614 ~~[(d)]~~ (c) "political subdivision" means any county, city, town, school district, public
615 transit district, community development and renewal agency, special improvement or taxing
616 district, local district, special service district, an entity created by an interlocal agreement
617 adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental

618 subdivision or public corporation; and

619 ~~[(e)]~~ (d) "state" means this state, and includes any office, department, agency, authority,
620 commission, board, institution, hospital, college, university, children's justice center, or other
621 instrumentality of the state.

622 (2) (a) The division shall issue to every person privileged to drive a motor vehicle, a
623 license certificate or a driving privilege card indicating the type or class of motor vehicle the
624 person may drive.

625 (b) A person may not drive a class of motor vehicle unless granted the privilege in that
626 class.

627 (3) (a) Every license certificate or driving privilege card shall bear:

628 (i) the distinguishing number assigned to the person by the division;

629 (ii) the name, birth date, and Utah residence address of the person;

630 (iii) a brief description of the person for the purpose of identification;

631 (iv) any restrictions imposed on the license under Section 53-3-208;

632 (v) a photograph of the person;

633 (vi) a photograph or other facsimile of the person's signature; and

634 (vii) an indication whether the person intends to make an anatomical gift under Title 26,
635 Chapter 28, Revised Uniform Anatomical Gift Act, unless the driving privilege is extended
636 under Subsection 53-3-214(3).

637 (b) A new license certificate issued by the division may not bear the person's Social
638 Security number.

639 (c) (i) The license certificate or driving privilege card shall be of an impervious material,
640 resistant to wear, damage, and alteration.

641 (ii) Except as provided under Subsection (4)(b), the size, form, and color of the license
642 certificate or driving privilege card shall be as prescribed by the commissioner.

643 (iii) The commissioner may also prescribe the issuance of a special type of limited
644 license certificate or driving privilege card under Subsection 53-3-220(4) and may authorize the
645 issuance of a renewed or duplicate license certificate or driving privilege card without a picture

646 if the applicant is not then living in the state.

647 (4) (a) (i) The division upon determining after an examination that an applicant is
648 mentally and physically qualified to be granted a driving privilege may issue to an applicant a
649 receipt for the fee if the applicant is eligible for a license certificate.

650 (ii) The receipt serves as a temporary license certificate [~~or temporary driving privilege~~
651 ~~card~~] allowing the person to drive a motor vehicle while the division is completing its
652 investigation to determine whether the person is entitled to be granted a driving privilege.

653 (b) The receipt shall be in the person's immediate possession while driving a motor
654 vehicle, and it is invalid when the person's license certificate [~~or driving privilege card~~] has been
655 issued or when, for good cause, the privilege has been refused.

656 (c) The division shall indicate on the receipt a date after which it is not valid as a license
657 certificate [~~or driving privilege card~~].

658 (d) (i) Except as provided in Subsection (4)(d)(ii), the division may not issue a receipt
659 that serves as a temporary driving privilege card or other temporary permit to an applicant for a
660 driving privilege card.

661 (ii) The division may issue a learner permit issued in accordance with Section
662 53-3-210.5 to an applicant for a driving privilege card.

663 (5) (a) The division shall distinguish learner permits, temporary permits, license
664 certificates, and driving privilege cards issued to any person younger than 21 years of age by use
665 of plainly printed information or the use of a color or other means not used for other license
666 certificates or driving privilege cards.

667 (b) The division shall distinguish a license certificate or driving privilege card issued to
668 any person:

669 (i) younger than 21 years of age by use of a portrait-style format not used for other
670 license certificates or driving privilege cards and by plainly printing the date the license
671 certificate or driving privilege card holder is 21 years of age, which is the legal age for
672 purchasing an alcoholic beverage or product under Section 32A-12-203; and

673 (ii) younger than 19 years of age, by plainly printing the date the license certificate or

674 driving privilege card holder is 19 years of age, which is the legal age for purchasing tobacco
 675 products under Section 76-10-104.

676 (6) (a) The division shall only issue a driving privilege card to a person whose privilege
 677 was obtained without using a Social Security number as required under Subsection 53-3-205(9).

678 (b) The division shall distinguish a driving privilege card from a license certificate by:

679 (i) use of a format, color, font, or other means; and

680 (ii) clearly displaying on the front of the driving privilege card a phrase substantially
 681 similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION".

682 (7) The provisions of Subsection (5)(b) do not apply to a learner permit, temporary
 683 permit, or any other temporary permit or receipt issued by the division.

684 (8) The division shall issue temporary license certificates [~~or temporary driving privilege~~
 685 ~~cards~~] of the same nature, except as to duration, as the license certificates [~~or driving privilege~~
 686 ~~cards~~] that they temporarily replace, as are necessary to implement applicable provisions of this
 687 section and Section 53-3-223.

688 (9) (a) A governmental entity may not accept a driving privilege card as proof of
 689 personal identification.

690 (b) A driving privilege card may not be used as a document providing proof of a
 691 person's age for any government required purpose.

692 (10) A person who violates Subsection (2)(b) is guilty of a class C misdemeanor.

693 (11) [~~Except as provided under this section,;~~] Unless otherwise provided, the provisions,
 694 requirements, classes, endorsements, fees, restrictions, and sanctions under this code apply to a:

695 (a) driving privilege in the same way as a license issued under this chapter; and

696 (b) driving privilege card in the same way as a license certificate issued under this
 697 chapter.

698 Section 8. Section **53-3-221 (Effective 07/01/08)** is amended to read:

699 **53-3-221 (Effective 07/01/08). Offenses which may result in denial, suspension,**
 700 **disqualification, or revocation of license without hearing -- Additional grounds for**
 701 **suspension -- Point system for traffic violations -- Notice and hearing -- Reporting of**

702 **traffic violation procedures.**

703 (1) By following the emergency procedures in Title 63, Chapter 46b, Administrative
704 Procedures Act, the division may immediately deny, suspend, disqualify, or revoke the license of
705 any person without hearing and without receiving a record of the person's conviction of crime
706 when the division has been notified or has reason to believe the person:

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

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

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

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

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

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

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

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

729 (c) (i) This Subsection (2) may not be exercised unless notice of the pending suspension

730 of the driving privilege has been sent at least ten days previously to the person at the address
731 provided to the division.

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

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

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

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

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

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

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

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

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

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

- 758 (A) "minimum" for exceeding the posted speed limit by up to ten miles per hour;
- 759 (B) "intermediate" for exceeding the posted speed limit by from 11 to 20 miles per
760 hour; and
- 761 (C) "maximum" for exceeding the posted speed limit by 21 or more miles per hour.
- 762 (iii) Consideration shall be made for assessment of no points on minimum speeding
763 violations, except for speeding violations in school zones.
- 764 (d) (i) Points assessed against a person's driving record shall be deleted for violations
765 occurring before a time limit set by the division.
- 766 (ii) The time limit may not exceed three years.
- 767 (iii) The division may also delete points to reward violation-free driving for periods of
768 time set by the division.
- 769 (e) (i) By publication in two newspapers having general circulation throughout the
770 state, the division shall give notice of the number of points it has assigned to each type of traffic
771 violation, the time limit set by the division for the deletion of points, and the point level at which
772 the division will generally take action to deny or suspend under this section.
- 773 (ii) The division may not change any of the information provided above regarding
774 points without first giving new notice in the same manner.
- 775 (5) (a) (i) Upon denying or suspending the license of a person under this section, the
776 division shall immediately notify the licensee in a manner specified by the division and afford
777 him an opportunity for a hearing in the county where the licensee resides.
- 778 (ii) The hearing shall be documented, and the division or its authorized agent may
779 administer oaths, may issue subpoenas for the attendance of witnesses and the production of
780 relevant books and papers, and may require a reexamination of the licensee.
- 781 (iii) One or more members of the division may conduct the hearing, and any decision
782 made after a hearing before any number of the members of the division is as valid as if made
783 after a hearing before the full membership of the division.
- 784 (iv) After the hearing the division shall either rescind its order of denial or suspension,
785 extend the denial or suspension of the license, or revoke the license.

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

- 788 (i) whose license has been denied or suspended following reexamination;
- 789 (ii) who is incompetent to drive a motor vehicle;
- 790 (iii) who is afflicted with mental or physical infirmities that might make him dangerous
791 on the highways; or
- 792 (iv) who may not have the necessary knowledge or skill to drive a motor vehicle safely.

793 (6) (a) Subject to Subsection (6)(d), the division shall suspend a person's license when
794 the division receives notice from the Office of Recovery Services that the Office of Recovery
795 Services has ordered the suspension of the person's license.

796 (b) A suspension under Subsection (6)(a) shall remain in effect until the division
797 receives notice from the Office of Recovery Services that the Office of Recovery Services has
798 rescinded the order of suspension.

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

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

- 804 (ii) The temporary limited driver license described in this section:
 - 805 (A) shall provide that the person may operate a motor vehicle only for the purpose of
806 driving to or from the person's place of employment, education, or child visitation;
 - 807 (B) shall prohibit the person from driving a motor vehicle for any purpose other than a
808 purpose described in Subsection (6)(d)(ii)(A); and
 - 809 (C) shall expire 90 days after the day on which the temporary limited driver license is
810 issued.
- 811 (iii) (A) During the period beginning on the day on which a temporary limited driver
812 license is issued under this Subsection (6), and ending on the day that the temporary limited
813 driver license expires, the suspension described in this Subsection (6) only applies if the person

814 who is suspended operates a motor vehicle for a purpose other than employment, education, or
815 child visitation.

816 (B) Upon expiration of a temporary limited driver license described in this Subsection
817 (6)(d):

818 (I) a suspension described in Subsection (6)(a) shall be in full effect until the division
819 receives notice, under Subsection (6)(b), that the order of suspension is rescinded; and

820 (II) a person suspended under Subsection (6)(a) may not drive a motor vehicle for any
821 reason.

822 (iv) The division is not required to issue a limited driver license to a person under this
823 Subsection (6)(d) if there are other legal grounds for the suspension of the person's driver
824 license.

825 (v) The division shall make rules, in accordance with Title 63, Chapter 46a, Utah
826 Administrative Rulemaking Act, to implement the provisions of this part.

827 (7) (a) The division may suspend or revoke the license of any resident of this state upon
828 receiving notice of the conviction of that person in another state of an offense committed there
829 that, if committed in this state, would be grounds for the suspension or revocation of a license.

830 (b) The division may, upon receiving a record of the conviction in this state of a
831 nonresident driver of a motor vehicle or motorboat of any offense under the motor vehicle laws
832 of this state, forward a certified copy of the record to the motor vehicle administrator in the
833 state where the person convicted is a resident.

834 (8) (a) The division may suspend or revoke the license of any nonresident to drive a
835 motor vehicle in this state for any cause for which the license of a resident driver may be
836 suspended or revoked.

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

839 (9) (a) The division may not deny or suspend the license of any person for a period of
840 more than one year except:

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

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

844 (iii) when extending a denial or suspension upon receiving certain records or reports
845 under Subsection 53-3-220(2);

846 (iv) for failure to give and maintain owner's or operator's security under Section
847 41-12a-411; or

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

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

851 (10) (a) By following the emergency procedures in Title 63, Chapter 46b,
852 Administrative Procedures Act, the division may immediately suspend the license of any person
853 without hearing and without receiving a record of his conviction for a crime when the division
854 has reason to believe that the person's license was granted by the division through error or fraud
855 or that the necessary consent for the license has been withdrawn or is terminated.

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

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

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

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

866 (12) (a) Except as provided in Subsection (12)(b), a report authorized by Section
867 53-3-104 may not contain any evidence of a conviction for speeding on an interstate system in
868 this state if the conviction was for a speed of ten miles per hour or less, above the posted speed
869 limit and did not result in an accident, unless authorized in a manner specified by the division by

870 the individual whose report is being requested.

871 (b) The provisions of Subsection (12)(a) do not apply for:

872 (i) a CDL license holder; or

873 (ii) a violation that occurred in a commercial motor vehicle.

874 (13) (a) By following the emergency procedures in Title 63, Chapter 46b,

875 Administrative Procedures Act, the division may immediately suspend the license of a person if

876 it has reason to believe that the person is the owner of a motor vehicle for which security is

877 required under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and

878 Operators Act, and has driven the motor vehicle or permitted it to be driven within this state

879 without the security being in effect.

880 (b) The division may immediately suspend a driving privilege card holder's driving
881 privilege card if the division receives notification from the Motor Vehicle Division that:

882 (i) the driving privilege card holder is the registered owner of a vehicle; and

883 (ii) the driving privilege card holder's vehicle registration has been revoked under

884 Subsection 41-1a-110(2)(a)(ii)(A).

885 [~~(b)~~] (c) Section 41-12a-411 regarding the requirement of proof of owner's or

886 operator's security applies to persons whose driving privileges are suspended under this

887 Subsection (13).

888 [~~(c)~~] (d) If the division exercises the right of immediate suspension granted under this

889 Subsection (13), the notice and hearing provisions of Subsection (5) apply.

890 [~~(d)~~] (e) A person whose license suspension has been sustained or whose license has

891 been revoked by the division under this Subsection (13) may file a request for agency action

892 requesting a hearing.

893 (14) Any suspension or revocation of a person's license under this section also

894 disqualifies any license issued to that person under Part 4, Uniform Driver License Act, of this

895 chapter.

896 Section 9. Section **58-37c-10** is amended to read:

897 **58-37c-10. Reporting and recordkeeping.**

898 (1) Any person who engages in a regulated transaction, unless excepted under the
899 provisions of Subsections 58-37c-8(3) and (4), shall submit a report with respect to such
900 transaction and shall maintain records of inventories in accordance with rules adopted by the
901 division.

902 (2) The division shall provide reporting forms upon which regulated transactions shall
903 be reported.

904 (3) The division shall furnish copies of reports of transactions under this section to
905 appropriate law enforcement agencies.

906 (4) The division shall adopt rules regulating:

907 (a) records which shall be maintained and reports which shall be submitted by regulated
908 distributors and regulated purchasers with respect to listed controlled substance precursors
909 obtained, distributed, and held in inventory;

910 (b) records which shall be maintained and reports which shall be submitted by regulated
911 distributors and regulated purchasers with respect to extraordinary or unusual regulated
912 transactions and a requirement that in such cases the report must be received at least three
913 working days prior to transfer of the listed controlled substance precursor;

914 (c) identification which must be presented by a purchaser of any listed controlled
915 substance precursor before the sale or transfer can be completed and recordkeeping
916 requirements related to such identification presented;

917 (d) filing by each licensee the identification of all locations where any listed controlled
918 substance precursor is held in inventory or stored and amending such filing when any change in
919 location is made;

920 (e) reports and actions which must be taken by a regulated distributor or regulated
921 purchaser in the event of any theft, loss, or shortage of a listed controlled substance precursor;

922 (f) reports and actions which must be taken by a regulated distributor relating to a
923 regulated transaction with an out-of-state purchaser;

924 (g) reports and actions which must be taken by a regulated purchaser relating to a
925 regulated transaction with an out-of-state distributor; and

926 (h) regulated transactions to the extent such regulation is reasonable and necessary to
927 protect the public health, safety, or welfare.

928 (5) A person who engages in a regulated transaction may not accept a driving privilege
929 card issued in accordance with Section 53-3-207 as proof of identification as required under
930 Subsection (4)(c).

931 Section 10. Section **76-10-526** is amended to read:

932 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**
933 **Exemption for concealed firearm permit holders.**

934 (1) For purposes of this section, "valid permit to carry a concealed firearm" does not
935 include a temporary permit issued pursuant to Section 53-5-705.

936 (2) (a) To establish personal identification and residence in this state for purposes of
937 this part, a dealer shall require an individual receiving a firearm to present one photo
938 identification on a form issued by a governmental agency of the state.

939 (b) A dealer may not accept a driving privilege card issued in accordance with Section
940 53-3-207 as proof of identification for the purpose of establishing personal identification and
941 residence in this state as required under this Subsection (2).

942 (3) A criminal history background check is required for the sale of a firearm by a
943 licensed firearm dealer in the state.

944 (4) (a) An individual, except a dealer, purchasing a firearm from a dealer shall consent
945 in writing to a criminal background check, on a form provided by the division.

946 (b) The form shall contain the following information:

947 (i) the dealer identification number;

948 (ii) the name and address of the individual receiving the firearm;

949 (iii) the date of birth, height, weight, eye color, and hair color of the individual receiving
950 the firearm; and

951 (iv) the Social Security number or any other identification number of the individual
952 receiving the firearm.

953 (5) (a) The dealer shall send the form required by Subsection (4) to the division

954 immediately upon its completion.

955 (b) No dealer shall sell or transfer any firearm to an individual until the dealer has
956 provided the division with the information in Subsection (4) and has received approval from the
957 division under Subsection (7).

958 (6) The dealer shall make a request for criminal history background information by
959 telephone or other electronic means to the division and shall receive approval or denial of the
960 inquiry by telephone or other electronic means.

961 (7) When the dealer calls for or requests a criminal history background check, the
962 division shall:

963 (a) review the criminal history files, including juvenile court records, to determine if the
964 individual is prohibited from purchasing, possessing, or transferring a firearm by state or federal
965 law;

966 (b) inform the dealer that:

967 (i) the records indicate the individual is so prohibited; or

968 (ii) the individual is approved for purchasing, possessing, or transferring a firearm;

969 (c) provide the dealer with a unique transaction number for that inquiry; and

970 (d) provide a response to the requesting dealer during the call for a criminal
971 background, or by return call, or other electronic means, without delay, except in case of
972 electronic failure or other circumstances beyond the control of the division, the division shall
973 advise the dealer of the reason for the delay and give the dealer an estimate of the length of the
974 delay.

975 (8) (a) The division shall not maintain any records of the criminal history background
976 check longer than 20 days from the date of the dealer's request if the division determines that
977 the individual receiving the gun is not prohibited from purchasing, possessing, or transferring
978 the firearm under state or federal law.

979 (b) However, the division shall maintain a log of requests containing the dealer's federal
980 firearms number, the transaction number, and the transaction date for a period of 12 months.

981 (9) If the criminal history background check discloses information indicating that the

982 individual attempting to purchase the firearm is prohibited from purchasing, possessing, or
983 transferring a firearm, the division shall inform the law enforcement agency in the jurisdiction
984 where the person resides.

985 (10) If an individual is denied the right to purchase a firearm under this section, the
986 individual may review his criminal history information and may challenge or amend the
987 information as provided in Section 53-10-108.

988 (11) The division shall make rules as provided in Title 63, Chapter 46a, Utah
989 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all
990 records provided by the division pursuant to this part are in conformance with the requirements
991 of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

992 (12) (a) (i) All dealers shall collect a criminal history background check fee which is
993 \$7.50.

994 (ii) This fee remains in effect until changed by the division through the process under
995 Section 63-38-3.2.

996 (b) (i) The dealer shall forward at one time all fees collected for criminal history
997 background checks performed during the month to the division by the last day of the month
998 following the sale of a firearm.

999 (ii) The division shall deposit the fees in the General Fund as dedicated credits to cover
1000 the cost of administering and conducting the criminal history background check program.

1001 (13) An individual with a concealed firearm permit issued pursuant to Title 53, Chapter
1002 5, Part 7, Concealed Weapon Act, shall be exempt from the background check and
1003 corresponding fee required in this section for the purchase of a firearm if:

1004 (a) the individual presents his concealed firearm permit to the dealer prior to purchase
1005 of the firearm; and

1006 (b) the dealer verifies with the division that the individual's concealed firearm permit is
1007 valid.

1008 **Section 11. Effective date.**

1009 This bill takes effect on July 1, 2008.

1010