

**CRIMINAL BACKGROUND CHECKS ON MOTOR
VEHICLE DEALERS AND SALESPERSONS**

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca D. Lockhart

Senate Sponsor: Mark B. Madsen

LONG TITLE

Committee Note:

The Judiciary, Law Enforcement, and Criminal Justice Interim Committee recommended this bill.

General Description:

This bill modifies the Motor Vehicle Business Regulation Act and the Public Safety Code by amending provisions relating to criminal background checks on motor vehicle dealers and salespersons.

Highlighted Provisions:

This bill:

requires every applicant for a motor vehicle ~~H→ [dealer or] ←H~~ salesperson license to submit fingerprints with a completed application to the Motor Vehicle Enforcement Division;

~~H→~~ requires certain persons that renewed a motor vehicle salesperson license to submit fingerprints to the Motor Vehicle Enforcement Division; ~~←H~~

provides that the Motor Vehicle Enforcement Division shall submit fingerprints for each applicant to the Bureau of Criminal Identification;

requires the Bureau of Criminal Identification to:

- compare motor vehicle ~~H→ [dealer and] ←H~~ salesperson applicant fingerprints with certain criminal databases and inform the Motor Vehicle Enforcement Division of its findings; and
- maintain a separate file of motor vehicle ~~H→ [dealer and] ←H~~ salesperson fingerprints and



28 notify the Motor Vehicle Enforcement Division when a new entry is made concerning a person
 29 in the file regarding an arrest for certain offenses;

30 ▶ ~~H→~~ [~~——provides that~~] requires ~~←H~~ the Motor Vehicle Enforcement Division

30a ~~H→~~ [~~shall pay the costs incurred~~

31 ~~by the Bureau of Criminal Identification from fees paid by those submitting~~

32 ~~fingerprints] to:~~

32a • impose the fees that the Bureau of Criminal Identification is authorized to collect

32b for certain services ~~←H~~ ; ~~H→~~ and

32c • remit the fees collected to the Bureau of Criminal Identification;

32d ▶ requires the Motor Vehicle Enforcement Division to suspend the salesperson license

32e of a salesperson who fails to submit the fingerprints as required; ~~←H~~

33 ▶ provides that the Motor Vehicle Enforcement Division shall use information

34 received from the Bureau of Criminal Identification to determine whether a license

35 should be denied, suspended, or revoked; 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, 2010.

41 **Utah Code Sections Affected:**

42 AMENDS:

43 **41-3-209**, as last amended by Laws of Utah 2008, Chapter 382

44 **53-10-202**, as renumbered and amended by Laws of Utah 1998, Chapter 263

45 ENACTS:

46 **41-3-205.5**, Utah Code Annotated 1953

47

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

49 Section 1. Section **41-3-205.5** is enacted to read:

50 **41-3-205.5. Licenses -- Criminal background check required on** ~~H→~~ [~~dealer's and~~] ~~←H~~

51 **salesperson's licenses -- Payment of cost.**

52 (1) (a) Every applicant for a ~~H→~~ [~~dealer's or~~] ~~←H~~ salesperson's license shall submit

52a fingerprints

53 with a completed application to the division.

53a ~~H→~~ **(b) A person required to renew a salesperson license on or before June 30,**

53b 2010 shall submit fingerprints to the division on or before November 30, 2010.

54 ~~[(b) For purposes of Subsection (1)(a), an applicant for a dealer's license includes every~~
55 ~~owner, partner, officer, or director of the dealer.] ←H~~

56 (2) The division shall submit fingerprints for each applicant described in Subsection
57 (1) to the Bureau of Criminal Identification established in Section 53-10-201.

58 (3) The Bureau of Criminal Identification shall:

59 (a) check the information submitted by the division for an applicant under Subsection
 60 (2) against the applicable state and regional criminal records databases; and

61 (b) release to the division all information obtained under Subsection (3)(a) relating to
 62 the applicant.

63 (4) (a) The Bureau of Criminal Identification shall maintain a separate file of
 64 fingerprints submitted under Subsection (2) and notify the division when a new entry is made
 65 in the applicable state and regional database against a person whose fingerprints are held in the
 66 file regarding any matter involving an arrest under state law involving:

67 (i) motor vehicles;

68 (ii) controlled substances;

69 (iii) fraud; or

70 (iv) a registerable sex offense under Section 77-27-21.5.

71 (b) Upon request by the division, the Bureau of Criminal Identification shall inform the
 72 division whether a person whose arrest was reported to the division under Subsection (4)(a)
 73 was subsequently convicted of the charge for which the person was arrested.

74 ~~**H→ [(5) The division shall pay the costs incurred by the Bureau of Criminal Identification**~~
 75 ~~**under Subsections (3) and (4) from fees charged by the division to those submitting**~~
 76 ~~**fingerprints.]**~~

76a **(5) In addition to any fees imposed under this chapter, the division shall:**

76b **(a) impose on individuals submitting fingerprints in accordance with this section the**
 76c **fees that the Bureau of Criminal Identification is authorized to collect for the services the**
 76d **Bureau of Criminal Identification provides under Subsections (3) and (4); and**

76e **(b) remit the fees collected under Subsection (5)(a) to the Bureau of Criminal**
 76f **Identification.** ←H

77 (6) The division shall use information received from the Bureau of Criminal
 78 Identification under this section to determine whether a license should be denied, suspended, or
 79 revoked under Section 41-3-209.

80 Section 2. Section **41-3-209** is amended to read:

81 **41-3-209. Administrator's findings -- Suspension and revocation of license.**

82 (1) If the administrator finds that an applicant is not qualified to receive a license, a
 83 license may not be granted.

84 (2) (a) ~~**H→**~~ **On December 1, 2010, the administrator shall suspend the license of a**
 84a **salesperson who fails to submit to the division fingerprints as required under**
 84b **Subsection 41-3-205.5(1)(b) on or before November 30, 2010.**

84c **(b)** ~~↔~~ If the administrator finds that there is reasonable cause to deny, suspend, or
85 revoke a license issued under this chapter, the administrator shall deny, suspend, or revoke the
86 license.

87 ~~↔~~ ~~↔~~ **(c)** ~~↔~~ Reasonable cause for denial, suspension, or revocation of a license
87a includes, in
88 relation to the applicant or license holder or any of its partners, officers, or directors:

89 (i) lack of a principal place of business;

90 (ii) lack of a sales tax license required under Title 59, Chapter 12, Sales and Use Tax
91 Act;

92 (iii) lack of a bond in effect as required by this chapter;

93 (iv) current revocation or suspension of a dealer, dismantler, auction, or salesperson
94 license issued in another state;

95 (v) nonpayment of required fees;

96 (vi) making a false statement on any application for a license under this chapter or for
97 special license plates;

98 (vii) a violation of any state or federal law involving motor vehicles;

99 (viii) a violation of any state or federal law involving controlled substances;

100 (ix) charges filed with any county attorney, district attorney, or U.S. attorney in any
101 court of competent jurisdiction for a violation of any state or federal law involving motor
102 vehicles;

103 (x) a violation of any state or federal law involving fraud; or

104 (xi) a violation of any state or federal law involving a registerable sex offense under
105 Section 77-27-21.5.

106 ~~H~~→ ~~(c)~~ **(d)** ←~~H~~ Any action taken by the administrator under Subsection

106a ~~H~~→ ~~(2)(b)(ix)~~ **(2)(c)(ix)** ←~~H~~ shall remain in

107 effect until a final resolution is reached by the court involved or the charges are dropped.

108 (3) If the administrator finds that an applicant is not qualified to receive a license under
109 this section, the administrator shall provide the applicant written notice of the reason for the
110 denial.

111 ~~(3)~~ **(4)** If the administrator finds that the license holder has been convicted by a court
112 of competent jurisdiction of violating any of the provisions of this chapter or any rules made by
113 the administrator, or finds other reasonable cause, the administrator may, by complying with
114 the emergency procedures of Title 63G, Chapter 4, Administrative Procedures Act:

115 (a) suspend the license on terms and for a period of time the administrator finds
116 reasonable; or

117 (b) revoke the license.

118 ~~(4)~~ **(5)** (a) After suspending or revoking a license, the administrator may take
119 reasonable action to:

120 (i) notify the public that the licensee is no longer in business; and

121 (ii) prevent the former licensee from violating the law by conducting business without
122 a license.

123 (b) Action under Subsection [~~(4)~~] (5)(a) may include signs, banners, barriers, locks,
124 bulletins, and notices.

125 (c) Any business being conducted incidental to the business for which the former
126 licensee was licensed may continue to operate subject to the preventive action taken under this
127 subsection.

128 Section 3. Section **53-10-202** is amended to read:

129 **53-10-202. Criminal identification -- Duties of bureau.**

130 The bureau shall:

131 (1) procure and file information relating to identification and activities of persons who:

132 (a) are fugitives from justice;

133 (b) are wanted or missing;

134 (c) have been arrested for or convicted of a crime under the laws of any state or nation;

135 and

136 (d) are believed to be involved in racketeering, organized crime, or a dangerous
137 offense;

138 (2) establish a statewide uniform crime reporting system that shall include:

139 (a) statistics concerning general categories of criminal activities;

140 (b) statistics concerning crimes that exhibit evidence of prejudice based on race,
141 religion, ancestry, national origin, ethnicity, or other categories that the division finds
142 appropriate; and

143 (c) other statistics as required by the Federal Bureau of Investigation;

144 (3) make a complete and systematic record and index of the information obtained
145 under this part;

146 (4) subject to the restrictions in this part, establish policy concerning the use and
147 dissemination of data obtained under this part;

148 (5) publish an annual report concerning the extent, fluctuation, distribution, and nature
149 of crime in Utah;

150 (6) establish a statewide central register for the identification and location of missing
151 persons, which may include:

- 152 (a) identifying data including fingerprints of each missing person;
- 153 (b) identifying data of any missing person who is reported as missing to a law
154 enforcement agency having jurisdiction;
- 155 (c) dates and circumstances of any persons requesting or receiving information from
156 the register; and
- 157 (d) any other information, including blood types and photographs found necessary in
158 furthering the purposes of this part;
- 159 (7) publish a quarterly directory of missing persons for distribution to persons or
160 entities likely to be instrumental in the identification and location of missing persons;
- 161 (8) list the name of every missing person with the appropriate nationally maintained
162 missing persons lists;
- 163 (9) establish and operate a 24-hour communication network for reports of missing
164 persons and reports of sightings of missing persons;
- 165 (10) coordinate with the National Center for Missing and Exploited Children and other
166 agencies to facilitate the identification and location of missing persons and the identification of
167 unidentified persons and bodies;
- 168 (11) receive information regarding missing persons, as provided in Sections 26-2-27
169 and 53A-11-502, and stolen vehicles, vessels, and outboard motors, as provided in Section
170 41-1a-1401;
- 171 (12) adopt systems of identification, including the fingerprint system, to be used by the
172 division to facilitate law enforcement; ~~and~~
- 173 (13) assign a distinguishing number or mark of identification to any pistol or revolver,
174 as provided in Section 76-10-520[-]; ~~and~~
- 175 (14) check certain criminal records databases for information regarding motor vehicle
176 ~~H→ [dealer and] ←H~~ salesperson applicants, maintain a separate file of fingerprints for motor
176a vehicle
- 177 ~~H→ [dealers and] ←H~~ salespersons, and inform the Motor Vehicle Enforcement Division when new
178 entries are made for certain criminal offenses for motor vehicle H→ [dealers and] ←H salespersons
178a in
- 179 accordance with the requirements of Section 41-3-205.5.
- 180 Section 4. **Effective date.**
- 181 This bill takes effect on July 1, 2010.

Legislative Review Note
as of 11-18-09 4:44 PM

Office of Legislative Research and General Counsel

Fiscal Note**H.B. 37 - Criminal Background Checks on Motor Vehicle Dealers and Salespersons - As Amended**

2010 General Session

State of Utah

State Impact

Enactment of this bill will require \$211,200 in dedicated credits for FY 2011 and \$11,200 in dedicated credits for FY 2012 to fund collection and compilation of motor vehicle dealer and salesperson fingerprints. The bill authorizes a fee to collect such dedicated credits.

	<u>FY 2010 Approp.</u>	<u>FY 2011 Approp.</u>	<u>FY 2012 Approp.</u>	<u>FY 2010 Revenue</u>	<u>FY 2011 Revenue</u>	<u>FY 2012 Revenue</u>
Dedicated Credits	\$0	\$211,200	\$11,200	\$0	\$211,200	\$11,200
Total	\$0	\$211,200	\$11,200	\$0	\$211,200	\$11,200

Individual, Business and/or Local Impact

Individuals and businesses will be subject to a \$5 fee for fingerprinting of motor vehicle dealers and salespersons. Local governments are unaffected.
