

PENALTIES FOR UNAUTHORIZED USE OF RECORDS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Richard A. Greenwood

Senate Sponsor: Curtis S. Bramble

LONG TITLE

Committee Note:

The Transportation Interim Committee recommended this bill.

General Description:

This bill modifies the Motor Vehicles Code and the Public Safety Code by amending provisions relating to the unauthorized use of certain records.

Highlighted Provisions:

This bill:

- provides that the ~~§~~ **knowing or intentional** ~~§~~ unauthorized ~~§~~ **access, use, disclosure, or dissemination** ~~§~~ of records created or maintained by the Motor Vehicle Division, the Driver License Division, or the Criminal Investigations and Technical Services Division is a class B misdemeanor;

- provides that the director of the Motor Vehicle Division, the Driver License Division, the Utah Bureau of Criminal Identification, and the Commissioner of Public Safety shall be informed of the unauthorized use of certain records; and

- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



59 (a) a mobile home located within the mobile home park owner's park has been
60 abandoned under Section 57-16-13 or the resident is in default under the resident's lease;

61 (b) the mobile home park owner has conducted a reasonable search, but is unable to
62 determine the name or address, or both, of the lienholder or mobile home owner of record; and

63 (c) the mobile home park owner has submitted a written statement to the division
64 explaining the mobile home park owner's efforts to determine the name or address, or both, of
65 the lienholder or mobile home owner of record before the mobile home park owner contacted
66 the division.

67 (6) The division may provide protected information to a statistic gathering entity under
68 Subsection (4) only in summary form.

69 (7) A person allowed access to protected records under Subsection (4) may request
70 motor vehicle title or registration information from the division regarding any person, entity, or
71 motor vehicle by submitting a written application on a form provided by the division.

72 (8) If a person regularly requests information for business purposes, the division may
73 by rule allow the information requests to be made by telephone and fees as required under
74 Subsection (9) charged to a division billing account to facilitate division service. The rules
75 shall require that the:

76 (a) division determine if the nature of the business and the volume of requests merit the
77 dissemination of the information by telephone;

78 (b) division determine if the credit rating of the requesting party justifies providing a
79 billing account; and

80 (c) requestor submit to the division an application that includes names and signatures
81 of persons authorized to request information by telephone and charge the fees to the billing
82 account.

83 (9) (a) The division shall charge a reasonable search fee determined under Section
84 63J-1-504 for the research of each record requested.

85 (b) Fees may not be charged for furnishing information to persons necessary for their
86 compliance with this chapter.

87 (c) Law enforcement agencies have access to division records free of charge.

88 **§→ ~~[(10) (a) Unauthorized use of records created or maintained by the division is a class B~~**
89 **misdemeanor.] (10)(a) It is a class B misdemeanor for a person to knowingly or intentionally**
89a **access, use, disclose, or disseminate a record created or maintained by the division or any**
89b **information contained in a record created or maintained by the division for a purpose not**
89c **permitted or prohibited by statute, rule, regulation, or policy of a governmental entity. ←§**

152 (b) Subsection (6)(a) does not apply to court or law enforcement reports and to reports
153 of commercial driver license violations.

154 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
155 division may make rules to designate:

156 (a) what information shall be included in a report on the driving record of a person;

157 (b) the form of a report or copy of the report which may include electronic format;

158 (c) the form of a certified copy, as required under Section 53-3-216, which may include
159 electronic format;

160 (d) the form of a signature required under this chapter which may include electronic
161 format;

162 (e) the form of written request to the division required under this chapter which may
163 include electronic format;

164 (f) the procedures, requirements, and formats for disclosing personal identifying
165 information under Subsection (1)(c); and

166 (g) the procedures, requirements, and formats necessary for the implementation of
167 Subsection (3).

168 (8) (a) ~~§~~ → **[Unauthorized use of records created or maintained by the division is a class B**
169 **misdemeanor.] It is a class B misdemeanor for a person to knowingly or intentionally access,**
169a **use, disclose, or disseminate a record created or maintained by the division or any information**
169b **contained in a record created or maintained by the division for a purpose not permitted or**
169c **prohibited by statute, rule, regulation, or policy of a governmental entity.** ← ~~§~~

170 (b) A person who discovers or becomes aware of any unauthorized use of records
171 created or maintained by the division shall inform the commissioner and the division director
172 of the unauthorized use.

173 Section 3. Section **53-10-108** is amended to read:

174 **53-10-108. Restrictions on access, use, and contents of division records -- Limited**
175 **use of records for employment purposes -- Challenging accuracy of records -- Usage fees**
176 **-- Missing children records.**

177 (1) Dissemination of information from a criminal history record or warrant of arrest
178 information from division files is limited to:

179 (a) criminal justice agencies for purposes of administration of criminal justice and for
180 employment screening by criminal justice agencies;

181 (b) noncriminal justice agencies or individuals for any purpose authorized by statute,
182 executive order, court rule, court order, or local ordinance;

245 (6) (a) This section does not preclude the use of the division's central computing
246 facilities for the storage and retrieval of criminal history record information.

247 (b) This information shall be stored so it cannot be modified, destroyed, or accessed by
248 unauthorized agencies or individuals.

249 (7) Direct access through remote computer terminals to criminal history record
250 information in the division's files is limited to those agencies authorized by the commissioner
251 under procedures designed to prevent unauthorized access to this information.

252 (8) (a) The commissioner shall establish procedures to allow an individual right of
253 access to review and receive a copy of the individual's criminal history report.

254 (b) A processing fee for the right of access service, including obtaining a copy of the
255 individual's criminal history report under Subsection (8)(a) is \$15. This fee remains in effect
256 until changed by the commissioner through the process under Section 63J-1-504.

257 (c) (i) The commissioner shall establish procedures for an individual to challenge the
258 completeness and accuracy of criminal history record information contained in the division's
259 computerized criminal history files regarding that individual.

260 (ii) These procedures shall include provisions for amending any information found to
261 be inaccurate or incomplete.

262 (9) The private security agencies as provided in Subsection (1)(f)(ii):

263 (a) shall be charged for access; and

264 (b) shall be registered with the division according to rules made by the division under
265 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

266 (10) Before providing information requested under this section, the division shall give
267 priority to criminal justice agencies needs.

268 (11) (a) ~~[Misuse of access to criminal history record information]~~ **Ŝ→ [Unauthorized use of**
269 **records created or maintained, or to which access is granted by the division is a class B**
270 **misdemeanor.] It is a class B misdemeanor for a person to knowingly or intentionally access,**
270a **use, disclose, or disseminate a record created, maintained, or to which access is granted by the**
270b **division or any information contained in a record created, maintained, or to which access is**
270c **granted by the division for a purpose not permitted or prohibited by statute, rule, regulation,**
270d **or policy of a governmental entity. ←Ŝ**

271 ~~[(b) The commissioner shall be informed of the misuse.]~~

272 (b) A person who discovers or becomes aware of any unauthorized use of records
273 created or maintained, or to which access is granted by the division shall inform the
274 commissioner and the director of the Utah Bureau of Criminal Identification of the
275 unauthorized use.