

DRIVER LICENSE SUSPENSION AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: D. Chris Buttars

House Sponsor: Curtis Oda

LONG TITLE

General Description:

This bill modifies the Uniform Driver License Act by amending provisions relating to the driver license suspension point system.

Highlighted Provisions:

This bill:

- ▶ provides that the division may not assess points against a person's driving record for a conviction of certain traffic violations that occurred in another state and that were committed on or after July 1, 2011; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-3-221, as last amended by Laws of Utah 2008, Chapters 322 and 382

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

Section 1. Section **53-3-221** is amended to read:

53-3-221. Offenses which may result in denial, suspension, disqualification, or revocation of license without hearing -- Additional grounds for suspension -- Point system for traffic violations -- Notice and hearing -- Reporting of traffic violation procedures.

30 (1) By following the emergency procedures in Title 63G, Chapter 4, Administrative
31 Procedures Act, the division may immediately deny, suspend, disqualify, or revoke the license
32 of any person without hearing and without receiving a record of the person's conviction of
33 crime when the division has been notified or has reason to believe the person:

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

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

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

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

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

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

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

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

56 (c) (i) This Subsection (2) may not be exercised unless notice of the pending
57 suspension of the driving privilege has been sent at least 10 days previously to the person at the

58 address provided to the division.

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

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

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

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

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

72 [~~(a)~~] (b) (i) The division shall assign a number of points to each type of moving traffic
73 violation as a measure of its seriousness.

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

76 (iii) Except as provided in Subsection (4)(b)(iv), the division may not assess points
77 against a person's driving record for a conviction of a traffic violation:

78 (A) that occurred in another state; and

79 (B) that was committed on or after July 1, 2011.

80 (iv) The provisions of Subsection (4)(b)(iii) do not apply to:

81 (A) a reckless or impaired driving violation or a speeding violation for exceeding the
82 posted speed limit by 21 or more miles per hour; or

83 (B) an offense committed in another state which, if committed within Utah, would
84 result in the mandatory suspension or revocation of a license upon conviction under Section
85 53-3-220.

86 ~~[(b)]~~ (c) Every person convicted of a traffic violation shall have assessed against the
87 person's driving record the number of points that the division has assigned to the type of
88 violation of which the person has been convicted, except that the number of points assessed
89 shall be decreased by 10% if on the abstract of the court record of the conviction the court has
90 graded the severity of violation as minimum, and shall be increased by 10% if on the abstract
91 the court has graded the severity of violation as maximum.

92 ~~[(c)]~~ (d) (i) A separate procedure for assessing points for speeding offenses shall be
93 established by the division based upon the severity of the offense.

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

95 (A) "minimum" for exceeding the posted speed limit by up to 10 miles per hour;

96 (B) "intermediate" for exceeding the posted speed limit by from 11 to 20 miles per
97 hour; and

98 (C) "maximum" for exceeding the posted speed limit by 21 or more miles per hour.

99 (iii) Consideration shall be made for assessment of no points on minimum speeding
100 violations, except for speeding violations in school zones.

101 ~~[(d)]~~ (e) (i) Points assessed against a person's driving record shall be deleted for
102 violations occurring before a time limit set by the division.

103 (ii) The time limit may not exceed three years.

104 (iii) The division may also delete points to reward violation-free driving for periods of
105 time set by the division.

106 ~~[(e)]~~ (f) (i) By publication in two newspapers having general circulation throughout the
107 state, the division shall give notice of the number of points it has assigned to each type of
108 traffic violation, the time limit set by the division for the deletion of points, and the point level
109 at which the division will generally take action to deny or suspend under this section.

110 (ii) The division may not change any of the information provided above regarding
111 points without first giving new notice in the same manner.

112 (5) (a) (i) Upon denying or suspending the license of a person under this section, the
113 division shall immediately notify the licensee in a manner specified by the division and afford

114 him an opportunity for a hearing in the county where the licensee resides.

115 (ii) The hearing shall be documented, and the division or its authorized agent may
116 administer oaths, may issue subpoenas for the attendance of witnesses and the production of
117 relevant books and papers, and may require a reexamination of the licensee.

118 (iii) One or more members of the division may conduct the hearing, and any decision
119 made after a hearing before any number of the members of the division is as valid as if made
120 after a hearing before the full membership of the division.

121 (iv) After the hearing the division shall either rescind its order of denial or suspension,
122 extend the denial or suspension of the license, or revoke the license.

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

125 (i) whose license has been denied or suspended following reexamination;

126 (ii) who is incompetent to drive a motor vehicle;

127 (iii) who is afflicted with mental or physical infirmities that might make him dangerous
128 on the highways; or

129 (iv) who may not have the necessary knowledge or skill to drive a motor vehicle safely.

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

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

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

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

141 (ii) The temporary limited driver license described in this section:

142 (A) shall provide that the person may operate a motor vehicle only for the purpose of
143 driving to or from the person's place of employment, education, or child visitation;

144 (B) shall prohibit the person from driving a motor vehicle for any purpose other than a
145 purpose described in Subsection (6)(d)(ii)(A); and

146 (C) shall expire 90 days after the day on which the temporary limited driver license is
147 issued.

148 (iii) (A) During the period beginning on the day on which a temporary limited driver
149 license is issued under this Subsection (6), and ending on the day that the temporary limited
150 driver license expires, the suspension described in this Subsection (6) only applies if the person
151 who is suspended operates a motor vehicle for a purpose other than employment, education, or
152 child visitation.

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

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

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

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

162 (v) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
163 Administrative Rulemaking Act, to implement the provisions of this part.

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

168 (b) The division may, upon receiving a record of the conviction in this state of a
169 nonresident driver of a motor vehicle or motorboat of any offense under the motor vehicle laws

170 of this state, forward a certified copy of the record to the motor vehicle administrator in the
171 state where the person convicted is a resident.

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

175 (b) Any nonresident who drives a motor vehicle upon a highway when the person's
176 license has been suspended or revoked by the division is guilty of a class C misdemeanor.

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

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

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

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

184 (iv) for failure to give and maintain owner's or operator's security under Section
185 41-12a-411; or

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

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

189 (10) (a) By following the emergency procedures in Title 63G, Chapter 4,
190 Administrative Procedures Act, the division may immediately suspend the license of any
191 person without hearing and without receiving a record of the person's conviction for a crime
192 when the division has reason to believe that the person's license was granted by the division
193 through error or fraud or that the necessary consent for the license has been withdrawn or is
194 terminated.

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

197 (11) (a) The division, having good cause to believe that a licensed driver is

198 incompetent or otherwise not qualified to be licensed, may upon notice in a manner specified
199 by the division of at least five days to the licensee require him to submit to an examination.

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

203 (c) Refusal or neglect of the licensee to submit to an examination is grounds for
204 suspension or revocation of the licensee's license.

205 (12) (a) Except as provided in Subsection (12)(b), a report authorized by Section
206 53-3-104 may not contain any evidence of a conviction for speeding on an interstate system in
207 this state if the conviction was for a speed of 10 miles per hour or less, above the posted speed
208 limit and did not result in an accident, unless authorized in a manner specified by the division
209 by the individual whose report is being requested.

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

211 (i) a CDL license holder; or

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

213 (13) (a) By following the emergency procedures in Title 63G, Chapter 4,
214 Administrative Procedures Act, the division may immediately suspend the license of a person
215 if it has reason to believe that the person is the owner of a motor vehicle for which security is
216 required under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and
217 Operators Act, and has driven the motor vehicle or permitted it to be driven within this state
218 without the security being in effect.

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

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

222 (ii) the driving privilege card holder's vehicle registration has been revoked under
223 Subsection 41-1a-110(2)(a)(ii)(A).

224 (c) Section 41-12a-411 regarding the requirement of proof of owner's or operator's
225 security applies to persons whose driving privileges are suspended under this Subsection (13).

226 (d) If the division exercises the right of immediate suspension granted under this
227 Subsection (13), the notice and hearing provisions of Subsection (5) apply.

228 (e) A person whose license suspension has been sustained or whose license has been
229 revoked by the division under this Subsection (13) may file a request for agency action
230 requesting a hearing.

231 (14) Any suspension or revocation of a person's license under this section also
232 disqualifies any license issued to that person under Part 4, Uniform Commercial Driver License
233 Act[, of this chapter].