

## SB0138S03 compared with SB0138

~~{deleted text}~~ shows text that was in SB0138 but was deleted in SB0138S03.

inserted text shows text that was not in SB0138 but was inserted into SB0138S03.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Representative Christopher N. Herrod proposes the following substitute bill:

### DRIVER LICENSE QUALIFICATION AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen H. Urquhart**

House Sponsor: ~~{~~ Don L. Ipson

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#### LONG TITLE

##### General Description:

This bill amends driver license and driving privilege card provisions.

##### Highlighted Provisions:

This bill:

- ▶ repeals the use of a temporary identification number (ITIN) issued by the Internal Revenue Service for purposes of obtaining a driving privilege card issued by the Driver License Division;
- ▶ expires all driving privilege cards on December 31, 2011;
- ▶ prohibits the Driver License Division from issuing a driving privilege card; and
- ▶ makes technical changes.

##### Money Appropriated in this Bill:

None

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### Other Special Clauses:

This bill provides an effective date.

[This bill coordinates with H.B. 116, Utah Immigration Accountability and Enforcement Amendments, by making substantive and technical amendments.](#)

### Utah Code Sections Affected:

AMENDS:

**32B-1-102 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
**32B-1-406 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
**41-1a-110**, as last amended by Laws of Utah 2008, Chapter 322  
**41-1a-1220**, as last amended by Laws of Utah 2008, Chapter 322  
**41-12a-806**, as last amended by Laws of Utah 2008, Chapter 322  
**46-1-2**, as last amended by Laws of Utah 2009, Chapter 315  
**53-3-102**, as last amended by Laws of Utah 2009, Chapters 45, 315, and 356  
**53-3-205**, as last amended by Laws of Utah 2010, Chapter 95  
**53-3-207 (Effective 07/01/11)**, as last amended by Laws of Utah 2010, Chapter 276  
**53-3-214**, as last amended by Laws of Utah 2009, Chapter 315  
**53-3-221**, as last amended by Laws of Utah 2008, Chapters 322 and 382  
**58-37c-10**, as last amended by Laws of Utah 2008, Chapter 322  
**63G-11-102**, as last amended by Laws of Utah 2010, Chapter 281  
**76-10-526**, as last amended by Laws of Utah 2010, Chapter 62

### Utah Code Sections Affected by Coordination Clause:

[63G-12-203, Utah Code Annotated 1953](#)

[63G-12-205, Utah Code Annotated 1953](#)

[76-9-1004, Utah Code Annotated 1953](#)

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

Section 1. Section **32B-1-102 (Effective 07/01/11)** is amended to read:

**32B-1-102 (Effective 07/01/11). Definitions.**

As used in this title:

(1) "Airport lounge" means a business location:

(a) at which an alcoholic product is sold at retail for consumption on the premises; and

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(b) that is located at an international airport with a United States Customs office on the premises of the international airport.

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

(4) (a) "Alcoholic product" means a product that:

(i) contains at least .5% of alcohol by volume; and

(ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:

(i) except as provided in Subsection (4)(d), an extract;

(ii) vinegar;

(iii) cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

(a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and

(b) described in Section 62A-15-401.

(6) "Banquet" means an event:

(a) that is held at one or more designated locations approved by the commission in or on the premises of a:

(i) hotel;

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- (ii) resort facility;
- (iii) sports center; or
- (iv) convention center;
- (b) for which there is a contract:
  - (i) between a person operating a facility listed in Subsection (6)(a) and another person;

and

(ii) under which the person operating a facility listed in Subsection (6)(a) is required to provide an alcoholic product at the event; and

(c) at which food and alcoholic products may be sold, offered for sale, or furnished.

(7) (a) Subject to Subsection (7)(b), "bar" means a counter or similar structure:

(i) at which an alcoholic product is:

(A) stored; or

(B) dispensed; or

(ii) from which an alcoholic product is served.

(b) For purposes of a full-service restaurant license or a limited-service restaurant license, "bar structure" means a surface or structure on the premises of a restaurant if on or at any place of the surface or structure an alcoholic product is:

(i) stored; or

(ii) dispensed.

(8) (a) Subject to Subsection (8)(d), "beer" means a product that:

(i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by volume or 3.2% by weight; and

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

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

(c) "Beer" includes a product that:

(i) contains alcohol in the percentages described in Subsection (8)(a); and

(ii) is referred to as:

(A) beer;

(B) ale;

(C) porter;

(D) stout;

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- (E) lager; or
- (F) a malt or malted beverage.
- (d) "Beer" does not include a flavored malt beverage.
- (9) "Beer retailer" means a business:
  - (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and
  - (b) to whom a license is issued:
    - (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-premise Beer Retailer Local Authority; or
    - (ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-premise Beer Retailer License.
- (10) "Beer wholesaling license" means a license:
  - (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
  - (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.
- (11) "Billboard" means a public display used to advertise, including:
  - (a) a light device;
  - (b) a painting;
  - (c) a drawing;
  - (d) a poster;
  - (e) a sign;
  - (f) a signboard; or
  - (g) a scoreboard.
- (12) "Brewer" means a person engaged in manufacturing:
  - (a) beer;
  - (b) heavy beer; or
  - (c) a flavored malt beverage.
- (13) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.
- (14) "Certificate of approval" means a certificate of approval obtained from the department under Subsection 32B-11-201(4).

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(15) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:

- (a) under a single contract;
- (b) at a fixed charge in accordance with the bus company's tariff; and
- (c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.

(16) "Church" means a building:

- (a) set apart for worship;
- (b) in which religious services are held;
- (c) with which clergy is associated; and
- (d) that is tax exempt under the laws of this state.

(17) (a) "Club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License.

(b) "Club license" includes:

- (i) a dining club license;
- (ii) an equity club license;
- (iii) a fraternal club license; or
- (iv) a social club license.

(18) "Commission" means the Alcoholic Beverage Control Commission created in Section 32B-2-201.

(19) "Commissioner" means a member of the commission.

(20) "Community location" means:

- (a) a public or private school;
- (b) a church;
- (c) a public library;
- (d) a public playground; or
- (e) a public park.

(21) "Community location governing authority" means:

- (a) the governing body of the community location; or
- (b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the

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community location the authority to prohibit an activity at the community location.

(22) "Convention center" means a facility that is:

(a) in total at least 30,000 square feet; and

(b) otherwise defined as a "convention center" by the commission by rule.

(23) For purposes of a full-service restaurant license or limited-service restaurant license:

(a) subject to Subsection (23)(b), "counter" means a surface or structure in a dining area of a restaurant where seating is provided to a patron for service of food; and

(b) "counter" does not include a surface or structure if on or at any point of the surface or structure an alcoholic product is:

(i) stored; or

(ii) dispensed.

(24) "Department" means the Department of Alcoholic Beverage Control created in Section 32B-2-203.

(25) "Department compliance officer" means an individual who is:

(a) an auditor or inspector; and

(b) employed by the department.

(26) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

(27) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a dining club license.

(28) "Director," unless the context requires otherwise, means the director of the department.

(29) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

(a) against a person subject to administrative action; and

(b) that is brought on the basis of a violation of this title.

(30) For purposes of a full-service restaurant license or a limited-service restaurant license, "dispense" means:

(a) drawing of an alcoholic product:

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- (i) from an area where it is stored; or
- (ii) as provided in Subsection 32B-6-205(12)(b)(ii) or 32B-6-305(12)(b)(ii); and
- (b) using the alcoholic product described in Subsection (29)(a) on the premises of the restaurant to mix or prepare an alcoholic product to be furnished to a patron of the restaurant.

(31) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

(32) "Distressed merchandise" means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

(33) "Educational facility" includes:

- (a) a nursery school;
- (b) an infant day care center; and
- (c) a trade and technical school.

(34) "Equity club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as an equity club license.

(35) "Event permit" means:

- (a) a single event permit; or
- (b) a temporary beer event permit.

(36) (a) "Flavored malt beverage" means a beverage:

- (i) that contains at least .5% alcohol by volume;
- (ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer as described in 27 C.F.R. Sec. 25.55;

(iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract; and

(iv) (A) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or  
(B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

(b) "Flavored malt beverage" is considered liquor for purposes of this title.

(37) "Fraternal club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission



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as a fraternal club license.

(38) "Full-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-service Restaurant License.

(39) (a) "Furnish" means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) "Furnish" includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

(40) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

(41) "Health care practitioner" means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapist Practice Act;

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

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(m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

(42) (a) "Heavy beer" means a product that:

- (i) contains more than 4% alcohol by volume; and
- (ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) "Heavy beer" is considered liquor for the purposes of this title.

(43) "Hotel" is as defined by the commission by rule.

(44) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

(45) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

(46) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

(47) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

- (a) law; or
- (b) court order.

(48) "Intoxicated" means that a person:

(a) is significantly impaired as to the person's mental or physical functions as a result of the use of:

- (i) an alcoholic product;
- (ii) a controlled substance;
- (iii) a substance having the property of releasing toxic vapors; or
- (iv) a combination of Subsections (48)(a)(i) through (iii); and

(b) exhibits plain and easily observed outward manifestations of behavior or physical signs produced by the over consumption of an alcoholic product.

(49) "Investigator" means an individual who is:

- (a) a department compliance officer; or
- (b) a nondepartment enforcement officer.

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(50) "Invitee" is as defined in Section 32B-8-102.

(51) "License" means:

(a) a retail license;

(b) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

or

(d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.

(52) "Licensee" means a person who holds a license.

(53) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-service Restaurant License.

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

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

(b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and

(c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

(55) (a) (i) "Liquor" means a liquid that:

(A) is:

(I) alcohol;

(II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

(III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

(IV) other drink or drinkable liquid; and

(B) (I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

(A) heavy beer;

(B) wine; and

(C) a flavored malt beverage.

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(b) "Liquor" does not include beer.

(56) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

(57) "Liquor warehousing license" means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

(58) "Local authority" means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county; or

(b) for premises that are located in an incorporated city or a town, the governing body of the city or town.

(59) "Lounge or bar area" is as defined by rule made by the commission.

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

(61) "Member" means an individual who, after paying regular dues, has full privileges in an equity club licensee or fraternal club licensee.

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

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

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

(b) "Military installation" does not include a facility used primarily for:

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

(63) "Minor" means an individual under the age of 21 years.

(64) "Nondepartment enforcement agency" means an agency that:

(a) (i) is a state agency other than the department; or

(ii) is an agency of a county, city, or town; and

(b) has a responsibility to enforce one or more provisions of this title.

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(65) "Nondepartment enforcement officer" means an individual who is:

- (a) a peace officer, examiner, or investigator; and
- (b) employed by a nondepartment enforcement agency.

(66) (a) "Off-premise beer retailer" means a beer retailer who is:

- (i) licensed in accordance with Chapter 7, Part 2, Off-premise Beer Retailer Local Authority; and
  - (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.
- (b) "Off-premise beer retailer" does not include an on-premise beer retailer.

(67) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-premise Banquet License.

(68) "On-premise beer retailer" means a beer retailer who is:

- (a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-premise Beer License; and
- (b) engaged in the sale of beer to a patron for consumption on the beer retailer's premises, regardless of whether the beer retailer sells beer for consumption off the licensed premises.

(69) "Package" means any of the following containing an alcoholic product:

- (a) a container;
- (b) a bottle;
- (c) a vessel; or
- (d) other receptacle.

(70) "Package agency" means a retail liquor location operated:

- (a) under an agreement with the department; and
- (b) by a person:
  - (i) other than the state; and
  - (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

(71) "Package agent" means a person who holds a package agency.

(72) "Patron" means an individual to whom food, beverages, or services are sold,

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offered for sale, or furnished, or who consumes an alcoholic product including:

- (a) a customer;
- (b) a member;
- (c) a guest;
- (d) an attendee of a banquet or event;
- (e) an individual who receives room service;
- (f) a resident of a resort;
- (g) a public customer under a resort spa sublicense, as defined in Section 32B-8-102;

or

- (h) an invitee.
- (73) "Permittee" means a person issued a permit under:

- (a) Chapter 9, Event Permit Act; or
- (b) Chapter 10, Special Use Permit Act.

(74) "Person subject to administrative action" means:

- (a) a licensee;
- (b) a permittee;
- (c) a manufacturer;
- (d) a supplier;
- (e) an importer;
- (f) an out-of-state brewer holding a certificate of approval; or
- (g) staff of:
  - (i) a person listed in Subsections (74)(a) through (g); or
  - (ii) a package agent.

(75) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

(76) "Prescription" means an order issued by a health care practitioner when:

(a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;

(b) the order is made in the course of that health care practitioner's professional practice; and

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(c) the order is made for obtaining an alcoholic product for medicinal purposes only.

(77) (a) "Private event" means a specific social, business, or recreational event:

(i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

(ii) that is limited in attendance to people who are specifically designated and their guests.

(b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

(78) ~~(a)~~ "Proof of age" means:

~~(i)~~ (a) an identification card;

~~(ii)~~ (b) an identification that:

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

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

~~(C)~~ (iii) includes date of birth; and

~~(D)~~ (iv) has a picture affixed;

~~(iii)~~ (c) a valid driver license certificate that:

~~(A)~~ (i) includes date of birth;

~~(B)~~ (ii) has a picture affixed; and

~~(C)~~ (iii) is issued:

~~(i)~~ (A) under Title 53, Chapter 3, Uniform Driver License Act; or

~~(ii)~~ (B) in accordance with the laws of the state in which it is issued;

~~(iv)~~ (d) a military identification card that:

~~(A)~~ (i) includes date of birth; and

~~(B)~~ (ii) has a picture affixed; or

~~(v)~~ (e) a valid passport.

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

(79) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

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(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

(80) "Public conveyance" means a conveyance to which the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

(81) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

(ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

(82) "Residence" means a person's principal place of abode within Utah.

(83) "Resident," in relation to a resort, is as defined in Section 32B-8-102.

(84) "Resort" is as defined in Section 32B-8-102.

(85) "Resort facility" is as defined by the commission by rule.

(86) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

(87) "Restaurant" means a business location:

(a) at which a variety of foods are prepared;

(b) at which complete meals are served to the general public; and



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

(88) "Retail license" means one of the following licenses issued under this title:

- (a) a full-service restaurant license;
- (b) a limited-service restaurant license;
- (c) a club license;
- (d) an airport lounge license;
- (e) an on-premise banquet license; or
- (f) an on-premise beer license.

(89) "Room service" means furnishing an alcoholic product to a person in a guest room of a:

- (a) hotel; or
- (b) resort facility.

(90) "Serve" means to place an alcoholic product before an individual.

(91) (a) "School" means a building used primarily for the general education of minors.

(b) "School" does not include an educational facility.

(92) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

(93) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

- (a) for the entertainment of one or more patrons;
- (b) on the premises of:
  - (i) a social club licensee; or
  - (ii) a tavern;
- (c) on behalf of or at the request of the licensee described in Subsection (93)(b);
- (d) on a contractual or voluntary basis; and
- (e) whether or not the person is designated as:
  - (i) an employee;
  - (ii) an independent contractor;

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(iii) an agent of the licensee; or

(iv) a different type of classification.

(94) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

(95) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverages per year.

(96) "Social club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a social club license.

(97) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

(98) (a) "Spirituous liquor" means liquor that is distilled.

(b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

(99) "Sports center" is as defined by the commission by rule.

(100) (a) "Staff" means an individual who engages in activity governed by this title:

(i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;

(ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or

(iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

(v) an agent of the licensee, including a managing agent;

(vi) an operator; or

(vii) a representative.

(101) "State of nudity" means:

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- (a) the appearance of:
  - (i) the nipple or areola of a female human breast;
  - (ii) a human genital;
  - (iii) a human pubic area; or
  - (iv) a human anus; or
- (b) a state of dress that fails to opaquely cover:
  - (i) the nipple or areola of a female human breast;
  - (ii) a human genital;
  - (iii) a human pubic area; or
  - (iv) a human anus.

(102) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

- (a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and
- (b) the human genitals, pubic area, and anus:
  - (i) with no less than the following at its widest point:
    - (A) four inches coverage width in the front of the human body; and
    - (B) five inches coverage width in the back of the human body; and
  - (ii) with coverage that does not taper to less than one inch wide at the narrowest point.

(103) (a) "State store" means a facility for the sale of packaged liquor:

- (i) located on premises owned or leased by the state; and
  - (ii) operated by a state employee.
- (b) "State store" does not include:
- (i) a package agency;
  - (ii) a licensee; or
  - (iii) a permittee.

(104) For purposes of a full-service restaurant license or a limited-service restaurant license:

(a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product from which a

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person draws to prepare an alcoholic product to be furnished to a patron of the restaurant, except as provided in Subsection 32B-6-205(12)(b)(ii) or 32B-6-305(12)(b)(ii).

(105) "Sublicense" is as defined in Section 32B-8-102.

(106) "Supplier" means a person who sells an alcoholic product to the department.

(107) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-premise Beer Retailer License.

(108) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

(109) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

(110) "Unsaleable liquor merchandise" means a package that:

(a) is unsaleable because the package is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

(b) (i) has faded labels or defective caps or corks;

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

(111) (a) "Wine" means an alcoholic product obtained by the fermentation of the

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natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

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

(112) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 2. Section **32B-1-406 (Effective 07/01/11)** is amended to read:

**32B-1-406 (Effective 07/01/11). Acceptance of identification.**

(1) An authorized person may accept as evidence of the legal age of the individual presenting the following:

(a) proof of age; or

(b) if a statement of age is required under Section 32B-1-405:

(i) proof of age; and

(ii) a statement of age.

(2) A statement of age, if properly completed, signed, and filed in accordance with Section 32B-1-405, may be offered as a defense in a case when there is at issue the legality of:

(a) selling, offering for sale, or furnishing an alcoholic product to the individual who signed the statement of age;

(b) admitting the individual who signed the statement of age into a restricted area; or

(c) allowing the individual who signed the statement of age to be employed in employment that under this title may not be obtained by a minor.

~~[(3) An authorized person may not accept a driving privilege card issued in accordance with Section 53-3-207 as evidence of the legal age of an individual.]~~

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

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

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

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

(b) the division determines that a registered vehicle is mechanically unfit or unsafe to

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be operated or moved upon the highways;

(c) a registered vehicle has been dismantled;

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

(e) a registration decal, license plate, or permit is knowingly displayed upon a vehicle other than the one for which issued;

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

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

(2) ~~[(a)]~~ The division shall revoke the registration of a vehicle if the division receives notification by the:

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

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

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

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

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

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

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

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

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

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

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

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

(1) At the time application is made for reinstatement or renewal of registration of a motor vehicle after a revocation of the registration under Subsection 41-1a-110(2), the applicant shall pay a registration reinstatement fee of \$100.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking and reinstating vehicle registrations under Subsection 41-1a-110(2)[~~(a)(ii)~~](b).

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Section 6. Section **46-1-2** is amended to read:

### **46-1-2. Definitions.**

As used in this chapter:

(1) "Acknowledgment" means a notarial act in which a notary certifies that a signer, whose identity is personally known to the notary or proven on the basis of satisfactory evidence, has admitted, in the presence of the notary, to voluntarily signing a document for the document's stated purpose.

(2) "Commission" means:

(a) to empower to perform notarial acts; and

(b) the written authority to perform those acts.

(3) "Copy certification" means a notarial act in which a notary certifies that a photocopy is an accurate copy of a document that is neither a public record nor publicly recorded.

(4) "Electronic signature" has the same meaning as provided under Section 46-4-102.

(5) "Jurat" means a notarial act in which a notary certifies that a signer, whose identity is personally known to the notary or proven on the basis of satisfactory evidence, has made, in the notary's presence, a voluntary signature and taken an oath or affirmation vouching for the truthfulness of the signed document.

(6) "Notarial act" and "notarization" mean any act that a notary is empowered to perform under this section.

(7) "Notarial certificate" means the part of or attachment to a notarized document for completion by the notary and bearing the notary's signature and seal.

(8) "Notary" means any person commissioned to perform notarial acts under this chapter.

(9) "Oath" or "affirmation" means a notarial act in which a notary certifies that a person made a vow or affirmation in the presence of the notary on penalty of perjury.

(10) "Official misconduct" means a notary's performance of any act prohibited or failure to perform any act mandated by this chapter or by any other law in connection with a notarial act.

(11) "Personal knowledge of identity" means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to eliminate every



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reasonable doubt that the individual has the identity claimed.

(12) (a) "Satisfactory evidence of identity" means identification of an individual based on:

(i) valid personal identification with the individual's photograph, signature, and physical description issued by the United States government, any state within the United States, or a foreign government;

(ii) a valid passport issued by any nation; or

(iii) the oath or affirmation of a credible person who is personally known to the notary and who personally knows the individual.

(b) "Satisfactory evidence of identity" does not include ~~[(i) a driving privilege card under Subsection 53-3-207(10); or (ii) another]~~ a document that is not considered valid for identification.

Section 7. Section **53-3-102** is amended to read:

### **53-3-102. Definitions.**

As used in this chapter:

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

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

(3) "Commercial driver license" or "CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(i).

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

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

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

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

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

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

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

(iii) firefighting and emergency vehicles; and

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

(5) "Conviction" means any of the following:

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

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

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

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

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

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

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

(8) "Disqualification" means either:

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

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

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

(9) "Division" means the Driver License Division of the department created in Section 53-3-103.

(10) "Drive" means:

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

(b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within the state.

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

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

~~[(12) "Driving privilege card" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained without providing evidence of lawful presence in the United States.]~~

~~[(13)]~~ (12) "Extension" means a renewal completed in a manner specified by the division.

~~[(14)]~~ (13) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

~~[(15)]~~ (14) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public, as a matter of right, for traffic.

~~[(16)]~~ (15) "Identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(i).

~~[(17)]~~ (16) "Indigent" means that a person's income falls below the federal poverty guideline issued annually by the U.S. Department of Health and Human Services in the Federal

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Register.

~~[(18)]~~ (17) "License" means the privilege to drive a motor vehicle.

~~[(19)]~~ (18) (a) "License certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle.

(b) "License certificate" evidence includes a:

(i) regular license certificate;

(ii) limited-term license certificate;

~~[(iii) driving privilege card;]~~

~~[(iv)]~~ (iii) CDL license certificate; and

~~[(v)]~~ (iv) limited-term CDL license certificate.

~~[(20)]~~ (19) "Limited-term commercial driver license" or "limited-term CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(ii).

~~[(21)]~~ (20) "Limited-term identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(ii).

~~[(22)]~~ (21) "Limited-term license certificate" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(B).

~~[(23)]~~ (22) "Motorboat" has the same meaning as provided under Section 73-18-2.

~~[(24)]~~ (23) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

~~[(25)]~~ (24) "Office of Recovery Services" means the Office of Recovery Services,

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created in Section 62A-11-102.

~~[(26)]~~ (25) (a) "Owner" means a person other than a lienholder having an interest in the property or title to a vehicle.

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

~~[(27)]~~ (26) "Regular license certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle whose privilege was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(A).

~~[(28)]~~ (27) "Renewal" means to validate a license certificate so that it expires at a later date.

~~[(29)]~~ (28) "Reportable violation" means an offense required to be reported to the division as determined by the division and includes those offenses against which points are assessed under Section 53-3-221.

~~[(30)]~~ (29) (a) "Resident" means an individual who:

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

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

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

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

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

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

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

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

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governmental entity; or

(iv) an immediate family member who resides with or a household member of a person listed in Subsections ~~[(30)]~~ (29)(b)(i) through (iii).

~~[(31)]~~ (30) "Revocation" means the termination by action of the division of a licensee's privilege to drive a motor vehicle.

~~[(32)]~~ (31) (a) "School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students to and from home and school, or to and from school sponsored events.

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

~~[(33)]~~ (32) "Suspension" means the temporary withdrawal by action of the division of a licensee's privilege to drive a motor vehicle.

~~[(34)]~~ (33) "Taxicab" means any class D motor vehicle transporting any number of passengers for hire and that is subject to state or federal regulation as a taxi.

Section 8. Section **53-3-205** is amended to read:

**53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving record transferred from other states -- Reinstatement -- Fee required -- License agreement.**

(1) An application for any original license, provisional license, or endorsement shall be:

- (a) made upon a form furnished by the division; and
- (b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

- (a) not more than three attempts to pass both the knowledge and the skills tests for a class D license within six months of the date of the application;
- (b) a learner permit if needed pending completion of the application and testing process; and
- (c) an original class D license and license certificate after all tests are passed.

(3) An application and fee for a motorcycle or taxicab endorsement entitle the

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applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months of the date of the application;

(b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(4) An application and fees for a commercial class A, B, or C license entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application;

(b) a commercial driver instruction permit if needed after the knowledge test is passed; and

(c) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

(5) An application and fee for a CDL endorsement entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application; and

(b) a CDL endorsement when all tests are passed.

(6) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (4) or (5), each test may be taken two additional times within the six months for the fee provided in Section 53-3-105.

(7) (a) Except as provided under Subsections (7)(f), (g), and (h), an original license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(b) Except as provided under Subsections (7)(f), (g), and (h), a renewal or an extension to a license expires on the birth date of the licensee in the fifth year following the expiration date of the license certificate renewed or extended.

(c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e) A regular license certificate and any endorsement to the regular license certificate

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held by a person ordered to active duty and stationed outside Utah in any of the armed forces of the United States or by an immediate family member or dependent who is residing outside of the state, which expires during the time period the person is stationed outside of the state, is valid until 90 days after the person's orders have been terminated or the person has been discharged, unless:

(i) the license is suspended, disqualified, denied, or has been cancelled or revoked by the division; or

(ii) the licensee updates the information or photograph on the license certificate.

(f) A limited-term license certificate or a renewal to a limited-term license certificate expires:

(i) on the expiration date of the period of time of the individual's authorized stay in the United States or on the date provided under this Subsection (7), whichever is sooner; or

(ii) on the birth date of the applicant in the first year following the year that the limited-term license certificate was issued if there is no definite end to the individual's period of authorized stay.

(g) A driving privilege card issued or renewed [~~under Section 53-3-207 expires on the birth date of the applicant in the first year following the year that the driving privilege card was issued or renewed~~] by the division expires on December 31, 2011.

(h) An original license or a renewal to an original license expires on the birth date of the applicant in the first year following the year that the license was issued if the applicant is required to register as a sex offender under Section 77-27-21.5.

(8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative Procedures Act, for requests for agency action, each applicant shall:

(i) provide the applicant's:

(A) full legal name;

(B) birth date;

(C) gender;

(D) (I) documentary evidence of the applicant's valid Social Security number;

(II) written proof that the applicant is ineligible to receive a Social Security number; or

~~[(III) temporary identification number (ITIN) issued by the Internal Revenue Service for a person who:]~~



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~~[(Aa) does not qualify for a Social Security number; and]~~

~~[(Bb) is applying for a driving privilege card; or]~~

~~[(FV)] (III)~~ other documentary evidence approved by the division; and

(E) Utah residence address as documented by a form or forms acceptable under rules made by the division under Section 53-3-104, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b);

(ii) provide evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(A) that a person is:

(I) a United States citizen;

(II) a national; or

(III) a legal permanent resident alien; or

(B) of the applicant's:

(I) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(II) pending or approved application for asylum in the United States;

(III) admission into the United States as a refugee;

(IV) pending or approved application for temporary protected status in the United States;

(V) approved deferred action status; or

(VI) pending application for adjustment of status to legal permanent resident or conditional resident;

(iii) provide a description of the applicant;

(iv) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(v) state whether the applicant has ever had any license suspended, cancelled, revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had any license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(vi) state whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);

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(vii) state whether the applicant is required to register as a sex offender under Section 77-27-21.5;

(viii) state whether the applicant is a military veteran and does or does not authorize sharing the information with the state Department of Veterans' Affairs;

(ix) provide all other information the division requires; and

(x) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) Each applicant shall have a Utah residence address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

(c) Each applicant shall provide evidence of lawful presence in the United States in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

(d) The division shall maintain on its computerized records an applicant's:

(i) (A) Social Security number; or

~~[(B) temporary identification number (ITIN); or]~~

~~[(C)]~~ (B) other number assigned by the division if Subsection (8)(a)(i)(D)~~[(IV)]~~(III) applies; and

(ii) indication whether the applicant is required to register as a sex offender under Section 77-27-21.5.

(9) The division shall require proof of every applicant's name, birthdate, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(10) (a) Except as provided in Subsection (10)(b), when an applicant receives a license in another class, all previous license certificates shall be surrendered and canceled.

(b) A disqualified commercial license may not be canceled unless it expires before the new license certificate is issued.

(11) (a) When an application is received from a person previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the

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other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(12) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license shall be accompanied by the additional fee or fees specified in Section 53-3-105.

(13) A person who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(14) A person who applies for an original license or renewal of a license agrees that the person's license is subject to any suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(15) (a) The indication of intent under Subsection (8)(a)(vi) shall be authenticated by the licensee in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-102, the names and addresses of all persons who under Subsection (8)(a)(vi) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans' Affairs the names and addresses of all persons who indicate their status as a veteran under Subsection (8)(a)(viii).

(17) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(18) A person who knowingly fails to provide the information required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

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Section 9. Section 53-3-207 (Effective 07/01/11) is amended to read:

**53-3-207 (Effective 07/01/11). License certificates issued to drivers by class of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.**

(1) As used in this section:

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

(b) "governmental entity" means the state and its political subdivisions as defined in this Subsection (1);

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

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

(2) (a) The division shall issue to every person privileged to drive a motor vehicle, a regular license certificate[;] or a limited-term license certificate[; ~~or a driving privilege card~~] indicating the type or class of motor vehicle the person may drive.

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

(3) (a) Every regular license certificate[;] or limited-term license certificate[; ~~or driving privilege card~~] shall bear:

- (i) the distinguishing number assigned to the person by the division;
- (ii) the name, birth date, and Utah residence address of the person;
- (iii) a brief description of the person for the purpose of identification;
- (iv) any restrictions imposed on the license under Section 53-3-208;
- (v) a photograph of the person;
- (vi) a photograph or other facsimile of the person's signature; and
- (vii) an indication whether the person intends to make an anatomical gift under Title

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26, Chapter 28, Revised Uniform Anatomical Gift Act, unless the [~~driving privilege~~] license is extended under Subsection 53-3-214(3).

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

(c) (i) The regular license certificate[;] or limited-term license certificate[; ~~or driving privilege card~~] shall be of an impervious material, resistant to wear, damage, and alteration.

(ii) Except as provided under Subsection (4)(b), the size, form, and color of the regular license certificate[;] or limited-term license certificate[; ~~or driving privilege card~~] shall be as prescribed by the commissioner.

(iii) The commissioner may also prescribe the issuance of a special type of limited regular license certificate[;] or limited-term license certificate[; ~~or driving privilege card~~] under Subsection 53-3-220(4).

(4) (a) (i) The division, upon determining after an examination that an applicant is mentally and physically qualified to be granted a driving privilege, may issue to an applicant a receipt for the fee if the applicant is eligible for a regular license certificate or limited-term license certificate.

(ii) The receipt serves as a temporary regular license certificate or limited-term license certificate allowing the person to drive a motor vehicle while the division is completing its investigation to determine whether the person is entitled to be granted a driving privilege.

(b) The receipt shall be in the person's immediate possession while driving a motor vehicle, and it is invalid when the person's regular license certificate or limited-term license certificate has been issued or when, for good cause, the privilege has been refused.

(c) The division shall indicate on the receipt a date after which it is not valid as a temporary license.

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

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

(5) (a) The division shall distinguish learner permits, temporary permits, regular license certificates, and limited-term license certificates[; ~~and driving privilege cards~~] issued to

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any person younger than 21 years of age by use of plainly printed information or the use of a color or other means not used for other regular license certificates~~[;] or~~ limited-term license certificates~~[; or driving privilege cards]~~.

(b) The division shall distinguish a regular license certificate~~[;] or~~ limited-term license certificate~~[; or driving privilege card]~~ issued to any person:

(i) younger than 21 years of age by use of a portrait-style format not used for other regular license certificates~~[;] or~~ limited-term license certificates~~[; or driving privilege cards]~~ and by plainly printing the date the regular license certificate~~[;] or~~ limited-term license certificate~~[; or driving privilege card]~~ holder is 21 years of age, which is the legal age for purchasing an alcoholic beverage or alcoholic product under Section 32B-14-403; and

(ii) younger than 19 years of age, by plainly printing the date the regular license certificate~~[;] or~~ limited-term license certificate~~[; or driving privilege card]~~ holder is 19 years of age, which is the legal age for purchasing tobacco products under Section 76-10-104.

(6) The division shall distinguish a limited-term license certificate by clearly indicating on the document:

(a) that it is temporary; and

(b) its expiration date.

~~[(7)(a) The division shall only issue a driving privilege card to a person whose privilege was obtained without providing evidence of lawful presence in the United States as required under Subsection 53-3-205(8).]~~

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

~~[(i) use of a format, color, font, or other means; and]~~

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

~~[(8)] (7)~~ The provisions of Subsection (5)(b) do not apply to a learner permit, temporary permit, or any other temporary permit or receipt issued by the division.

~~[(9)] (8)~~ The division shall issue temporary license certificates of the same nature, except as to duration, as the license certificates that they temporarily replace, as are necessary to implement applicable provisions of this section and Section 53-3-223.

(9) Beginning on July 1, 2011, the division may not issue a driving privilege card.

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

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

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

(12) Unless otherwise provided, the provisions, requirements, classes, endorsements, fees, restrictions, and sanctions under this code apply to a:

(a) driving privilege in the same way as a license or limited-term license issued under this chapter; and

(b) limited-term license certificate [~~or driving privilege card~~] in the same way as a regular license certificate issued under this chapter.

Section 10. Section **53-3-214** is amended to read:

### **53-3-214. Renewal -- Fees required -- Extension without examination.**

(1) (a) The holder of a valid license may renew the holder's license and any endorsement to the license by applying:

(i) at any time within six months before the license expires; or

(ii) more than six months prior to the expiration date if the applicant furnishes proof that the applicant will be absent from the state during the six-month period prior to the expiration of the license.

(b) The application for a renewal of, extension of, or any endorsement to a license shall be accompanied by a fee under Section 53-3-105.

(2) (a) Except as provided under Subsections (2)(b) and (3), upon application for renewal of a regular license certificate, provisional license, and any endorsement to a regular license certificate, the division shall reexamine each applicant as if for an original license and endorsement to the license, if applicable.

(b) Except as provided under Subsection (2)(c), upon application for renewal of a limited-term license certificate, limited-term provisional license certificate, and any endorsement to a limited-term license certificate, the division shall:

(i) reexamine each applicant as if for an original limited-term license certificate and endorsement to the limited-term license certificate, if applicable; and

(ii) verify through valid documentary evidence that the status by which the individual

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originally qualified for the limited-term license certificate has been extended by the United States Citizenship and Immigration Services or other authorized agency of the United States Department of Homeland Security.

(c) The division may waive any or all portions of the test designed to demonstrate the applicant's ability to exercise ordinary and reasonable control driving a motor vehicle.

(3) (a) Except as provided under Subsections (3)(b) and (c), the division may extend a regular license certificate, any endorsement to the regular license certificate, a provisional license, and any endorsement to a provisional license for five years without examination for licensees whose driving records for the five years immediately preceding the determination of eligibility for extension show:

- (i) no suspensions;
- (ii) no revocations;
- (iii) no conviction for reckless driving under Section 41-6a-528; and
- (iv) no more than four reportable violations in the preceding five years.

(b) Except as provided in Subsection (3)(g), after the expiration of a regular license certificate, a new regular license certificate and any endorsement to a regular license certificate may not be issued until the person has again passed the tests under Section 53-3-206 and paid the required fee.

(c) After the expiration of a limited-term license certificate, a new limited-term license certificate and any endorsement to a limited-term license certificate may not be issued until the person has:

- (i) again passed the tests under Section 53-3-206 and paid the required fee; and
- (ii) presented documentary evidence that the status by which the individual originally qualified for the limited-term license certificate has been extended by the United States Citizenship and Immigration Services or other authorized agency of the United States Department of Homeland Security.

(d) A person 65 years of age or older shall take and pass the eye examination specified in Section 53-3-206.

(e) An extension may not be granted to any person:

- (i) who is identified by the division as having a medical impairment that may represent a hazard to public safety;



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(ii) holding a CDL or limited-term CDL issued under Part 4, Uniform Commercial Driver License Act; or

(iii) who is holding a limited-term license certificate[~~;~~~~or~~].

~~[(iv) who is holding a driving privilege card issued in accordance with Section 53-3-207.]~~

(f) The division shall allow extensions:

(i) by mail or Internet at the appropriate extension fee rate under Section 53-3-105;

(ii) only if the applicant qualifies under this section; and

(iii) for only one extension.

(g) The division may waive any or all portions of the test designed to demonstrate the applicant's ability to exercise ordinary and reasonable control driving a motor vehicle.

Section 11. 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.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Every person convicted of a traffic violation shall have assessed against the person's

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driving record the number of points that the division has assigned to the type of violation of which the person has been convicted, except that the number of points assessed shall be decreased by 10% if on the abstract of the court record of the conviction the court has graded the severity of violation as minimum, and shall be increased by 10% if on the abstract the court has graded the severity of violation as maximum.

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

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

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

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

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

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

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

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

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

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

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

(5) (a) (i) Upon denying or suspending the license of a person under this section, the division shall immediately notify the licensee in a manner specified by the division and afford him an opportunity for a hearing in the county where the licensee resides.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) (A) During the period beginning on the day on which a temporary limited driver

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license is issued under this Subsection (6), and ending on the day that the temporary limited driver license expires, the suspension described in this Subsection (6) only applies if the person who is suspended operates a motor vehicle for a purpose other than employment, education, or child visitation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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- (i) a CDL license holder; or
- (ii) a violation that occurred in a commercial motor vehicle.

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

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

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

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

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

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

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

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

Section 12. Section **58-37c-10** is amended to read:

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

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

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

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

(4) The division shall adopt rules regulating:

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

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

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

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

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

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

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

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

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

Section 13. Section **63G-11-102** is amended to read:

**63G-11-102. Creation of identity documents -- Issuance to citizens, nationals, and legal permanent resident aliens -- Exceptions.**

(1) The following entities may create, publish, or otherwise manufacture an



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identification document, identification card, or identification certificate and possess an engraved plate or other device for the printing of an identification document:

(a) a federal, state, or local government agency for employee identification, which is designed to identify the bearer as an employee;

(b) a federal, state, or local government agency for purposes authorized or required by law or a legitimate purpose consistent with the duties of the agency, including such documents as voter identification cards, identification cards, passports, birth certificates, and Social Security cards; and

(c) a public school or state or private educational institution to identify the bearer as an administrator, faculty member, student, or employee.

(2) The name of the issuing entity shall be clearly printed upon the face of the identification document.

(3) Except as otherwise provided in Subsections (4) and (5) or by federal law, an entity providing an identity document, card, or certificate under Subsection (1)(b) or (c) shall issue the document, card, or certificate only to:

(a) a United States citizen;

(b) a national; or

(c) a legal permanent resident alien.

(4) (a) Subsection (3) does not apply to an applicant for an identification document who presents, in person, valid documentary evidence of the applicant's:

(i) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(ii) pending or approved application for asylum in the United States;

(iii) admission into the United States as a refugee;

(iv) pending or approved application for temporary protected status in the United States;

(v) approved deferred action status; or

(vi) pending application for adjustment of status to legal permanent resident or conditional resident.

(b) (i) An entity listed in Subsection (1)(b) or (c) may issue a Subsection (1)(b) or (c) identification document to an applicant who satisfies the requirements of Subsection (4)(a).

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(ii) Except as otherwise provided by federal law, the document is valid only:

(A) during the period of time of the individual's authorized stay in the United States; or

(B) for one year from the date of issuance if there is no definite end to the individual's period of authorized stay.

(iii) An entity issuing an identification document under this Subsection (4) shall clearly indicate on the document:

(A) that it is temporary; and

(B) its expiration date.

(c) An individual may renew a document issued under this Subsection (4) only upon presentation of valid documentary evidence that the status by which the individual originally qualified for the identification document has been extended by the United States Citizenship and Immigration Services or other authorized agency of the United States Department of Homeland Security.

(5) (a) Subsection (3) does not apply to an identification document issued under Subsection (1)(c) that:

(i) is only valid for use on the educational institution's campus or facility; and

(ii) includes a statement of the restricted use conspicuously printed upon the face of the identification document.

(b) Subsection (3) does not apply to a license certificate~~[, driving privilege card,]~~ or identification card issued or renewed under Title 53, Chapter 3, Uniform Driver License Act.

(c) Subsection (3) does not apply to a public transit pass issued by a public transit district as defined in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that:

(i) is only valid for use on the public transit system; and

(ii) includes a statement of the restricted use conspicuously printed on the face of the public transit pass.

(6) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

Section 14. Section **76-10-526** is amended to read:

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

(1) For purposes of this section, "valid permit to carry a concealed firearm" does not

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include a temporary permit issued pursuant to Section 53-5-705.

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

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

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

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

(b) The form shall contain the following information:

(i) the dealer identification number;

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

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

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

(5) (a) The dealer shall send the form required by Subsection (4) to the bureau immediately upon its completion.

(b) A dealer may not sell or transfer a firearm to an individual until the dealer has provided the bureau with the information in Subsection (4) and has received approval from the bureau under Subsection (7).

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

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

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

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(b) inform the dealer that:

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

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

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

(d) provide a response to the requesting dealer during the call for a criminal

background, or by return call, or other electronic means, without delay, except in case of electronic failure or other circumstances beyond the control of the bureau, the bureau shall advise the dealer of the reason for the delay and give the dealer an estimate of the length of the delay.

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

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

(9) If the criminal history background check discloses information indicating that the individual attempting to purchase the firearm is prohibited from purchasing, possessing, or transferring a firearm, the bureau shall inform the law enforcement agency in the jurisdiction where the person resides.

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

(11) The bureau shall make rules as provided in Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records provided by the division pursuant to this part are in conformance with the requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

(12) (a) (i) A dealer shall collect a criminal history background check fee related to the sale of a firearm under this section, which is \$7.50.

(ii) This fee remains in effect until changed by the bureau through the process under Section 63J-1-504.

(b) (i) The dealer shall forward at one time all fees collected for criminal history

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background checks performed during the month to the bureau by the last day of the month following the sale of a firearm.

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

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

(a) the individual presents the individual's concealed firearm permit to the dealer prior to purchase of the firearm; and

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

### Section 15. **Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2011.

(2) The amendments to the following sections take effect on January 1, 2012:

(a) Section 32B-1-102;

(b) Section 32B-1-406;

(c) Section 41-1a-110;

(d) Section 41-1a-1220;

(e) Section 41-12a-806;

(f) Section 46-1-2;

(g) Section 53-3-102;

(h) Section 53-3-221;

(i) Section 58-37c-10;

(j) Section 63G-11-102; and

(k) Section 76-10-526.

†

**Legislative Review Note**

~~as of 1-4-11 10:55 AM~~

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Section 16. Coordinating S.B. 138 with H.B. 116 -- Substantive and technical amendments.

If this S.B. 138 and H.B. 116, Utah Immigration Accountability and Enforcement Amendments, both pass, it is the intent of the Legislature that:

(1) Subsections 63G-12-205(1)(i) and 76-9-1004(4) enacted in H.B. 116 do not take effect; and

(2) the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

(a) modify Subsection 63G-12-203(1) to read as follows:

"(1) To the extent feasible, the department shall coordinate the implementation of the program with other existing state and federal laws that relate to immigration and labor, including laws pertaining to reporting citizenship status."; and

(b) modify Subsection 63G-12-205(1)(h)(ii) to read as follows:

" (ii) provide evidence satisfactory to the department that the undocumented individual has no medical debt that is past due and agrees to have no medical debt that is past due during the term of the permit."