

HB0377S01 compared with HB0377

~~{deleted text}~~ shows text that was in HB0377 but was deleted in HB0377S01.

inserted text shows text that was not in HB0377 but was inserted into HB0377S01.

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Representative Eric K. Hutchings proposes the following substitute bill:

DRIVER LICENSE RECORDS AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies ~~{the Uniform Driver License Act by amending }~~ provisions relating to driver license records.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ authorizes the Driver License Division to disclose portions of a driving record to:
 - an employer or a designee of an employer, for purposes of monitoring the driving record and status of current employees who drive as a responsibility of the employees' employment, if the requester demonstrates that the requester has obtained the written consent of the individual to whom the information pertains; and

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- an employer or the employer's agents to obtain or verify information relating to a holder of a commercial driver license that is required under federal law;
- ▶ requires that the authorized disclosure of a driving record be limited to the driving record of a current employee of the employer;
- ▶ amends provisions regarding the content of and requirements for disclosing a commercial driver license motor vehicle record; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:

AMENDS:

53-3-102, as last amended by Laws of Utah 2012, Chapter 144

53-3-109, as last amended by Laws of Utah 2011, Chapters 190 and 243

53-3-221, as last amended by Laws of Utah 2013, Chapter 411

53-3-402, as last amended by Laws of Utah 2013, Chapter 411

53-3-410.1, as last amended by Laws of Utah 2013, Chapter 411

53-3-420, as last amended by Laws of Utah 2007, Chapter 53

53-3-709, as renumbered and amended by Laws of Utah 1993, Chapter 234

72-9-107, as last amended by Laws of Utah 2009, Chapters 155 and 356

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

Section 1. 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 instruction permit" or "CDIP" means a permit issued under

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Section 53-3-408.

~~[(3)]~~ (4) "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).

(5) "Commercial driver license motor vehicle record" or "CDL MVR" means a driving record that:

(a) applies to a person who holds or is required to hold a commercial driver instruction permit or a CDL license; and

(b) contains the following:

(i) information contained in the driver history, including convictions, pleas held in abeyance, disqualifications, and other licensing actions for violations of any state or local law relating to motor vehicle traffic control, committed in any type of vehicle;

(ii) driver self-certification status information under Section 53-3-410.1; and

(iii) information from medical certification recordkeeping in accordance with 49 C.F.R. Sec. 383.73(o).

~~[(4)]~~ (6) (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

(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

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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)]~~ (7) "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)]~~ (8) "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)]~~ (9) "Director" means the division director appointed under Section 53-3-103.

~~[(8)]~~ (10) "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;

(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)]~~ (11) "Division" means the Driver License Division of the department created in Section 53-3-103.

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~~[(10)]~~ (12) "Downgrade" means to obtain a lower license class than what was originally issued during an existing license cycle.

~~[(11)]~~ (13) "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.

~~[(12)]~~ (14) (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.

~~[(13)]~~ (15) "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.

~~[(14)]~~ (16) "Extension" means a renewal completed in a manner specified by the division.

~~[(15)]~~ (17) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

~~[(16)]~~ (18) "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.

~~[(17)]~~ (19) "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).

~~[(18)]~~ (20) "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 Register.

~~[(19)]~~ (21) "License" means the privilege to drive a motor vehicle.

~~[(20)]~~ (22) (a) "License certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle.

(b) "License certificate" evidence includes a:

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- (i) regular license certificate;
- (ii) limited-term license certificate;
- (iii) driving privilege card;
- (iv) CDL license certificate;
- (v) limited-term CDL license certificate;
- (vi) temporary regular license certificate; and
- (vii) temporary limited-term license certificate.

~~[(21)]~~ (23) "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).

~~[(22)]~~ (24) "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).

~~[(23)]~~ (25) "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).

~~[(24)]~~ (26) "Motorboat" has the same meaning as provided under Section 73-18-2.

~~[(25)]~~ (27) "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.

(28) "Motor vehicle record" or "MVR" means a driving record under Subsection 53-3-109(6)(a).

~~[(26)]~~ (29) "Office of Recovery Services" means the Office of Recovery Services, created in Section 62A-11-102.

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~~[(27)]~~ (30) (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.

~~[(28)]~~ (31) "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).

~~[(29)]~~ (32) "Renewal" means to validate a license certificate so that it expires at a later date.

~~[(30)]~~ (33) "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.

~~[(31)]~~ (34) (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 governmental entity; or

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(iv) an immediate family member who resides with or a household member of a person listed in Subsections ~~[(31)]~~ (34)(b)(i) through (iii).

~~[(32)]~~ (35) "Revocation" means the termination by action of the division of a licensee's privilege to drive a motor vehicle.

~~[(33)]~~ (36) (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.

~~[(34)]~~ (37) "Suspension" means the temporary withdrawal by action of the division of a licensee's privilege to drive a motor vehicle.

~~[(35)]~~ (38) "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 2. Section **53-3-109** is amended to read:

53-3-109. Records -- Access -- Fees -- Rulemaking.

(1) (a) Except as provided in this section, all records of the division shall be classified and disclosed in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The division may only disclose personal identifying information:

(i) when the division determines it is in the interest of the public safety to disclose the information; and

(ii) in accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123.

(c) The division may disclose personal identifying information:

(i) to a licensed private investigator holding a valid agency license, with a legitimate business need;

(ii) to an insurer, insurance support organization, or a self-insured entity, or its agents, employees, or contractors that issues any motor vehicle insurance under Title 31A, Chapter 22, Part 3, Motor Vehicle Insurance, for use in connection with claims investigation activities, antifraud activities, rating, or underwriting for any person issued a license certificate under this chapter; or

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(iii) to a depository institution as defined in Section 7-1-103 for use in accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123.

(2) (a) A person who receives personal identifying information shall be advised by the division that the person may not:

(i) disclose the personal identifying information from that record to any other person;

or

(ii) use the personal identifying information from that record for advertising or solicitation purposes.

(b) Any use of personal identifying information by an insurer or insurance support organization, or by a self-insured entity or its agents, employees, or contractors not authorized by Subsection (1)(c)(ii) is:

(i) an unfair marketing practice under Section 31A-23a-402; or

(ii) an unfair claim settlement practice under Subsection 31A-26-303(3).

(3) (a) Notwithstanding the provisions of Subsection (1)(b), the division or its designee may disclose portions of a driving record, in accordance with this Subsection (3), to:

(i) an insurer as defined under Section 31A-1-301, or a designee of an insurer, for purposes of assessing driving risk on the insurer's current motor vehicle insurance policyholders[-];

(ii) an employer or a designee of an employer, for purposes of monitoring the driving record and status of current employees who drive as a responsibility of the employee's employment if the requester demonstrates that the requester has obtained the written consent of the individual to whom the information pertains; and

(iii) an employer or the employer's agents to obtain or verify information relating to a holder of a commercial driver license that is required under 49 U.S.C. Chapter 313.

(b) The disclosure under Subsection (3)(a) shall:

(i) include the licensed driver's name, driver license number, date of birth, and an indication of whether the driver has had a moving traffic violation that is a reportable violation, as defined under Section 53-3-102 during the previous month;

(ii) be limited to the records of drivers who, at the time of the disclosure, are covered under a motor vehicle insurance policy of the insurer; [~~and~~]

(iii) be limited to the records of a current employee of an employer; and

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~~[(iii)]~~ (iv) be made under a contract with the insurer, employer, or a designee of an insurer or employer.

(c) In addition to the disclosure under Subsection (3)(b), the disclosure under Subsections (3)(a)(ii) and (iii) shall include an indication of whether the driver has had a change reflected in the driver's driving status or license class.

~~[(e)]~~ (d) The contract under Subsection (3)(b)~~[(iii)]~~(iv) shall specify:

- (i) the criteria for searching and compiling the driving records being requested;
- (ii) the frequency of the disclosures;
- (iii) the format of the disclosures, which may be in bulk electronic form; and
- (iv) a reasonable charge for the driving record disclosures under this Subsection (3).

(4) The division may:

(a) collect fees in accordance with Section 53-3-105 for searching and compiling its files or furnishing a report on the driving record of a person;

(b) prepare under the seal of the division and deliver upon request, a certified copy of any record of the division, and charge a fee under Section 63J-1-504 for each document authenticated; and

(c) charge reasonable fees established in accordance with the procedures and requirements of Section 63J-1-504 for disclosing personal identifying information under Subsection (1)(c).

(5) Each certified copy of a driving record furnished in accordance with this section is admissible in any court proceeding in the same manner as the original.

(6) (a) A driving record furnished under this section may only report on the driving record of a person for a period of 10 years.

(b) Subsection (6)(a) does not apply to court or law enforcement reports, reports of commercial driver license violations, or reports for commercial driver license holders.

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

- (a) what information shall be included in a report on the driving record of a person;
- (b) the form of a report or copy of the report which may include electronic format;
- (c) the form of a certified copy, as required under Section 53-3-216, which may include electronic format;

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

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

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

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

(8) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created or maintained by the division or any information contained in a record created or maintained by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

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

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

53-3-221. Offenses that 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;

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(e) has knowingly committed a violation of Section 53-3-229; or

(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.

(d) The provisions of Subsection (3)(c) do not apply to:

(i) a CDIP or CDL license holder; or

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

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

(b) (i) The division shall assign a number of points to each type of moving traffic

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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.

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

(A) that occurred in another state; and

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

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

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

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

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

(d) (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.

(e) (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.

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

(f) (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.

(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

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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 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

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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);

(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;

(v) when the division suspends the license under Subsection (6); or

(vi) when the division denies the license under Subsection (14).

(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

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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:

(i) a CDIP or 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).

(c) 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) If the division exercises the right of immediate suspension granted under this

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

(e) 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) The division may deny an individual's license if the person fails to comply with the requirement to downgrade the person's CDL to a class D license under Section 53-3-410.1.

(15) The division may deny a person's class A, B, C, or D license if the person fails to comply with the requirement to have a K restriction removed from the person's license.

(16) 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.

Section 4. Section **53-3-402** is amended to read:

53-3-402. Definitions.

As used in this part:

(1) "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means the number of grams of alcohol per:

(a) 100 milliliters of blood;

(b) 210 liters of breath; or

(c) 67 milliliters of urine.

~~[(3) "Commercial driver instruction permit" or "CDIP" means a permit issued under Section 53-3-408.]~~

~~[(4)]~~ (3) "Commercial driver license information system" or "CDLIS" means the information system established under Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, as a clearinghouse for information related to the licensing and identification of commercial motor vehicle drivers.

~~[(5)]~~ (4) "Controlled substance" means any substance so classified under Section 102(6) of the Controlled Substance Act, 21 U.S.C. 802(6), and includes all substances listed on the current Schedules I through V of 21 C.F.R., Part 1308 as they may be revised from time to time.

~~[(6)]~~ (5) "Employee" means any driver of a commercial motor vehicle, including:

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- (a) full-time, regularly employed drivers;
- (b) casual, intermittent, or occasional drivers;
- (c) leased drivers; and
- (d) independent, owner-operator contractors while in the course of driving a commercial motor vehicle who are either directly employed by or under lease to an employer.

~~[(7)]~~ (6) "Employer" means any individual or person including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns an individual to drive a commercial motor vehicle.

~~[(8)]~~ (7) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term of more than one year.

~~[(9)]~~ (8) "Foreign jurisdiction" means any jurisdiction other than the United States or a state of the United States.

~~[(10)]~~ (9) "Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the maximum loaded weight of a single vehicle or GVWR of a combination or articulated vehicle, and includes the GVWR of the power unit plus the total weight of all towed units and the loads on those units.

~~[(11)]~~ (10) "Hazardous material" has the same meaning as defined under 49 C.F.R. Sec. 383.5.

~~[(12)]~~ (11) "Imminent hazard" means the existence of a condition, practice, or violation that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment is expected to occur immediately, or before the condition, practice, or violation can be abated.

~~[(13)]~~ (12) "Medical certification status" means the medical certification of a commercial driver license holder or commercial motor vehicle operator in any of the following categories:

- (a) Non-excepted interstate. A person shall certify that the person:
 - (i) operates or expects to operate in interstate commerce;
 - (ii) is both subject to and meets the qualification requirements under 49 C.F.R. Part 391; and
 - (iii) is required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45.
- (b) Excepted interstate. A person shall certify that the person:

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(i) operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. Sec. 390.3(f), 391.2, 391.68, or 398.3 from all or parts of the qualification requirements of 49 C.F.R. Part 391; and

(ii) is not required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45.

(c) Non-excepted intrastate. A person shall certify that the person:

(i) operates only in intrastate commerce; and

(ii) is subject to state driver qualification requirements under Sections 53-3-303.5, 53-3-304, and 53-3-414.

(d) Excepted intrastate. A person shall certify that the person:

(i) operates in intrastate commerce; and

(ii) engages exclusively in transportation or operations excepted from all parts of the state driver qualification requirements.

~~[(14)]~~ (13) "NDR" means the National Driver Register.

~~[(15)]~~ (14) "Nonresident CDL" means a commercial driver license issued by a state to an individual who resides in a foreign jurisdiction.

~~[(16)]~~ (15) "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.

~~[(17)]~~ (16) "Port-of-entry agent" has the same meaning as provided in Section 72-1-102.

~~[(18)]~~ (17) "Serious traffic violation" means a conviction of any of the following:

(a) speeding 15 or more miles per hour above the posted speed limit;

(b) reckless driving as defined by state or local law;

(c) improper or erratic traffic lane changes;

(d) following the vehicle ahead too closely;

(e) any other motor vehicle traffic law which arises in connection with a fatal traffic accident;

(f) operating a commercial motor vehicle without a CDL or a CDIP;

(g) operating a commercial motor vehicle without the proper class of CDL or CDL endorsement for the type of vehicle group being operated or for the passengers or cargo being transported;

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(h) operating a commercial motor vehicle without a CDL or CDIP license certificate in the driver's possession in violation of Section 53-3-404;

(i) using a handheld wireless communication device in violation of Section 41-6a-1716 while operating a commercial motor vehicle; or

(j) using a hand-held mobile telephone while operating a commercial motor vehicle in violation of 49 C.F.R. Sec. 392.82.

~~[(19)]~~ (18) "State" means a state of the United States, the District of Columbia, any province or territory of Canada, or Mexico.

~~[(20)]~~ (19) "United States" means the 50 states and the District of Columbia.

Section 5. Section **53-3-410.1** is amended to read:

53-3-410.1. Medical certification requirements.

(1) A person whose medical certification status is:

(a) "non-excepted interstate" under Subsection 53-3-402~~[(13)]~~(12)(a) is required to provide the division a medical self certification and an updated medical examiner's certificate under 49 C.F.R. Sec. 391.45 upon request by the division;

(b) "excepted interstate" under Subsection 53-3-402~~[(13)]~~(12)(b) is required to provide to the division a medical self certification upon request by the division;

(c) "non-excepted intrastate" under Subsection 53-3-402~~[(13)]~~(12)(c) is required to, upon request by the division:

(i) provide to the division a medical self certification; and

(ii) comply with the requirements of Section 53-3-303.5; or

(d) "excepted intrastate" under Subsection 53-3-402~~[(13)]~~(12)(b) is required to, upon request by the division:

(i) provide to the division a medical self certification; and

(ii) (A) provide to the division an updated medical examiner's certificate under 49 C.F.R. Sec. 391.45; or

(B) comply with the requirements of Section 53-3-303.5.

(2) A request by the division for a person to comply with Subsection (1) shall correspond with the expiration of the previously submitted medical examiner's certificate.

(3) If a person fails to comply with a request under this section, the person shall be required to downgrade the person's CDL to a class D license.

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(4) Failure to comply with the requirement of this section shall result in the denial of the license under Section 53-3-221.

Section 6. Section **53-3-420** is amended to read:

53-3-420. Driver's driving record available for certain purposes.

The division shall provide [~~full information regarding the driving record~~] the CDL MVR of any holder of a CDIP or CDL within 10 days of a request to:

~~[(1) the driver license administrator of any other state requesting that information;]~~

(1) another state via the commercial driver license information system;

(2) [~~any employer or prospective employer of a person to drive a commercial motor vehicle~~] a motor carrier or prospective motor carrier with a release that includes the notarized signature of the subject of the record granting disclosure of the record upon request and payment of a fee under Section 53-3-105;

(3) [~~insurers of commercial motor vehicle drivers~~] the subject of the record upon request and payment of a fee under Section 53-3-105; and

(4) the Secretary of the United States Department of Transportation.

Section 7. Section 53-3-709 is amended to read:

53-3-709. Amendment of compact.

(1) (a) This compact may be amended from time to time.

(b) Amendments shall be presented in resolution form to the chairman of the board of compact administrators and may be initiated by one or more party jurisdictions.

(2) Adoption of an amendment requires endorsement of all party jurisdictions and becomes effective 30 days after the date of the last endorsement.

(3) (a) Failure of a party jurisdiction to respond to the compact chairman within 120 days after receipt of the proposed amendment constitutes endorsement.

(b) 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 requirements of this part.

(c) The provisions of Subsection (3)(b) do not apply to:

(i) a CDIP or CDL license holder; or

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

Section ~~{7}~~8. Section **72-9-107** is amended to read:

72-9-107. Medical exemptions for farm vehicle operators.

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Except as provided in Section 53-3-206, an operator of a farm vehicle or combination of farm vehicles is exempt from additional requirements for physical qualifications, medical examinations, and medical certification if the farm vehicle or combination of farm vehicles being operated is:

- (1) under 26,001 pounds gross vehicle weight rating;
- (2) not operated as a commercial motor vehicle in accordance with Subsection 53-3-102[(4)](6)(b)(ii); and
- (3) not operated as an interstate commercial motor vehicle.

Section ~~{8}~~9. **Effective date.**

This bill takes effect on July 1, 2014.

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Legislative Review Note

~~as of 2-19-14 8:37 AM~~

~~Office of Legislative Research and General Counsel~~