

## SB0016S03 compared with SB0016S02

~~{deleted text}~~ shows text that was in SB0016S02 but was deleted in SB0016S03.

Inserted text shows text that was not in SB0016S02 but was inserted into SB0016S03.

**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 bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

~~{Senator Daniel W.}~~Representative Brian M. ~~{Thatcher}~~Greene proposes the following substitute bill:

### PUBLIC SAFETY FEE REVISIONS

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel W. Thatcher**

House Sponsor: Eric K. Hutchings

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#### LONG TITLE

##### General Description:

This bill ~~{provides that}~~amends fees for~~{some}~~ services provided by the Department of Public Safety~~{shall be set in accordance with the Budgetary Procedures Act}~~.

##### Highlighted Provisions:

This bill:

- ▶ changes some fee amounts for services provided by the Department of Public Safety;
- ▶ removes some Department of Public Safety fees from statute~~{~~

~~— requires that some department fees be set as required by the Budgetary Procedures Act}~~to regulatory fees; and

- ▶ makes conforming and technical corrections.

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### Money Appropriated in this Bill:

This bill appropriates:

► To Department of Public Safety - Programs & Operations

- From General Fund (1,115,800)
- From Dedicated Credits Revenue (7,407,100)
- From Concealed Weapons Account (GFR) (3,373,500)
- From Statewide Warrant Ops (GFR) (586,200)
- From Transfers (26,100)
- From Pass-through (1,600)

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► To Department of Public Safety - Bureau of Criminal Identification

- From General Fund 2,~~565~~615,800
- From Dedicated Credits Revenue 6,~~382,100~~291,800
- From Concealed Weapons Account (GFR) 3,~~373~~125,~~500~~000
- From Statewide Warrant Ops (GFR) 450,000
- From Transfers 26,100
- From Pass-through 1,600

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

AMENDS:

41-6a-904, as last amended by Laws of Utah 2016, Chapters 59 and 303

53-1-106, as last amended by Laws of Utah 2013, Chapter 295

53-3-105, as last amended by Laws of Utah 2014, Chapters 225, 252, and 343

53-3-106, as last amended by Laws of Utah 2014, Chapters 252 and 343

53-3-109, as last amended by Laws of Utah 2016, Chapter 175

53-3-205, as last amended by Laws of Utah 2016, Chapter 175

53-3-223, as last amended by Laws of Utah 2017, Chapter 446

53-3-231, as last amended by Laws of Utah 2014, Chapter 7

53-5-706, as last amended by Laws of Utah 2017, Chapter 286

53-5-707, as last amended by Laws of Utah 2017, Chapter 286

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**53-5-707.5**, as enacted by Laws of Utah 2017, Chapter 286

**53-7-223**, as last amended by Laws of Utah 2010, Chapter 61

**53-7-224**, as enacted by Laws of Utah 1993, Chapter 234

**53-9-111**, as last amended by Laws of Utah 2014, Chapter 378

**53-10-108**, as last amended by Laws of Utah 2015, Chapters 255 and 389

**53-11-115**, as last amended by Laws of Utah 2015, Chapter 170

**76-10-526**, as last amended by Laws of Utah 2014, Chapter 226

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

Section 1. Section 41-6a-904 is amended to read:

**41-6a-904. Approaching emergency vehicle -- Necessary signals -- Stationary emergency vehicle -- Duties of respective operators.**

(1) Except when otherwise directed by a peace officer, the operator of a vehicle, upon the immediate approach of an authorized emergency vehicle using audible or visual signals under Section 41-6a-212 or 41-6a-1625, shall:

(a) yield the right-of-way and immediately move to a position parallel to, and as close as possible to, the right-hand edge or curb of the highway, clear of any intersection; and

(b) then stop and remain stopped until the authorized emergency vehicle has passed.

(2) (a) The operator of a vehicle, upon approaching a stationary authorized emergency vehicle that is displaying alternately flashing red, red and white, or red and blue lights, shall:

(i) reduce the speed of the vehicle;

(ii) provide as much space as practical to the stationary authorized emergency vehicle; and

(iii) if traveling in a lane adjacent to the stationary authorized emergency vehicle and if practical, with due regard to safety and traffic conditions, make a lane change into a lane not adjacent to the authorized emergency vehicle.

(b) (i) If the operator of a vehicle is traveling in an HOV lane, upon approaching a stationary authorized emergency vehicle that is displaying alternately flashing red, red and white, or red and blue lights, the requirements in Subsection (2)(a) apply.

(ii) The operator of a vehicle traveling in an HOV lane, upon approaching a stationary authorized emergency vehicle that is displaying alternately flashing red, red and white, or red

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and blue lights, shall, if practical, with due regard to safety and traffic conditions, make a lane change out of the HOV lane into a lane not adjacent to the authorized emergency vehicle.

(3) (a) The operator of a vehicle, upon approaching a stationary tow truck or highway maintenance vehicle that is displaying flashing amber lights, shall:

(i) reduce the speed of the vehicle; and

(ii) provide as much space as practical to the stationary tow truck or highway maintenance vehicle.

(b) The operator of a vehicle traveling in an HOV lane, upon approaching a stationary tow truck or highway maintenance vehicle that is displaying flashing amber lights, shall, if practical, with due regard to safety and traffic conditions, make a lane change out of the HOV lane into a lane not adjacent to the tow truck or highway maintenance vehicle.

(4) This section does not relieve the operator of an authorized emergency vehicle, tow truck, or highway maintenance vehicle from the duty to drive with regard for the safety of all persons using the highway.

(5) (a) (i) In addition to the penalties prescribed under Subsection (7), a person who violates this section shall attend a four hour live classroom defensive driving course approved by:

(A) the Driver License Division; or

(B) a court in this state.

(ii) Upon completion of the four hour live classroom course under Subsection (5)(a)(i), the person shall provide to the Driver License Division a certificate of attendance of the classroom course.

(b) The Driver License Division shall suspend a person's driver license for a period of 90 days if the person:

(i) violates a provision of Subsections (1) through (3); and

(ii) fails to meet the requirements of Subsection (5)(a)(i) within 90 days of sentencing for or pleading guilty to a violation of this section.

(c) Notwithstanding the provisions of Subsection (5)(b), the Driver License Division shall shorten the 90-day suspension period imposed under Subsection (5)(b) effective immediately upon receiving a certificate of attendance of the four hour live classroom course required under Subsection (5)(a)(i) if the certificate of attendance is received before the

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completion of the suspension period.

(d) A person whose license is suspended under Subsection (5)(b) and a person whose suspension is shortened as described under Subsection (5)(c) shall pay the license reinstatement fees under Subsection 53-3-105~~(23)~~(24).

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Driver License Division shall make rules to implement the provisions of this part.

(7) A violation of Subsection (1), (2), or (3) is an infraction.

Section ~~41-2~~53-1-106. Section **53-1-106** is amended to read:

### **53-1-106. Department duties -- Powers.**

(1) In addition to the responsibilities contained in this title, the department shall:

(a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code, including:

(i) setting performance standards for towing companies to be used by the department, as required by Section 41-6a-1406; and

(ii) advising the Department of Transportation regarding the safe design and operation of school buses, as required by Section 41-6a-1304;

(b) make rules to establish and clarify standards pertaining to the curriculum and teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;

(c) aid in enforcement efforts to combat drug trafficking;

(d) meet with the Department of Technology Services to formulate contracts, establish priorities, and develop funding mechanisms for dispatch and telecommunications operations;

(e) provide assistance to the Crime Victim Reparations Board and the Utah Office for Victims of Crime in conducting research or monitoring victims' programs, as required by Section 63M-7-505;

(f) develop sexual assault exam protocol standards in conjunction with the Utah Hospital Association;

(g) engage in emergency planning activities, including preparation of policy and procedure and rulemaking necessary for implementation of the federal Emergency Planning and Community Right to Know Act of 1986, as required by Section 53-2a-702; and

(h) implement the provisions of Section 53-2a-402, the Emergency Management Assistance Compact.

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(2) (a) The department [~~may~~] shall establish a schedule of fees as required or allowed in this title for services provided by the department.

(b) [~~The~~] All fees not established in statute shall be established in accordance with Section 63J-1-504.

(3) The department may establish or contract for the establishment of an Organ Procurement Donor Registry in accordance with Section 26-28-120.

Section ~~(2)~~3. Section **53-3-105** is amended to read:

**53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling, and identification cards.**

The following fees apply under this chapter:

(1) An original class D license application under Section 53-3-205 is [~~\$25~~] \$32.

(2) An original provisional license application for a class D license under Section 53-3-205 is [~~\$30~~] \$39.

(3) An original application for a motorcycle endorsement under Section 53-3-205 is [~~\$9.50~~] \$11.

(4) An original application for a taxicab endorsement under Section 53-3-205 is [~~\$7~~] \$9.

(5) A learner permit application under Section 53-3-210.5 is [~~\$15~~] \$19.

(6) A renewal of a class D license under Section 53-3-214 is [~~\$25~~] \$32 unless Subsection (10) applies.

(7) A renewal of a provisional license application for a class D license under Section 53-3-214 is [~~\$25~~] \$32.

(8) A renewal of a motorcycle endorsement under Section 53-3-214 is [~~\$9.50~~] \$11.

(9) A renewal of a taxicab endorsement under Section 53-3-214 is [~~\$7~~] \$9.

(10) A renewal of a class D license for a person 65 and older under Section 53-3-214 is [~~\$13~~] \$17.

(11) An extension of a class D license under Section 53-3-214 is [~~\$20~~] \$26 unless Subsection (15) applies.

(12) An extension of a provisional license application for a class D license under Section 53-3-214 is [~~\$20~~] \$26.

(13) An extension of a motorcycle endorsement under Section 53-3-214 is [~~\$9.50~~] \$11.

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(14) An extension of a taxicab endorsement under Section 53-3-214 is [~~\$7~~] \$9.

(15) An extension of a class D license for a person 65 and older under Section 53-3-214 is [~~\$11~~] \$14.

(16) An original or renewal application for a commercial class A, B, or C license or an original or renewal of a provisional commercial class A or B license under Part 4, Uniform Commercial Driver License Act, is[~~:~~] \$52.

~~[(a) \$40 for the knowledge test, and]~~

~~[(b) \$60 for the skills test.]~~

(17) A commercial class A, B, or C license skills test is \$78.

~~[(17)]~~ (18) Each original CDL endorsement for passengers, hazardous material, double or triple trailers, or tankers is [~~\$7~~] \$9.

~~[(18)]~~ (19) An original CDL endorsement for a school bus under Part 4, Uniform Commercial Driver License Act, is [~~\$7~~] \$9.

~~[(19)]~~ (20) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver License Act, is [~~\$7~~] \$9.

~~[(20)]~~ (21) (a) A retake of a CDL knowledge test provided for in Section 53-3-205 is [~~\$20~~] \$26.

(b) A retake of a CDL skills test provided for in Section 53-3-205 is [~~\$40~~] \$52.

~~[(21)]~~ (22) A retake of a CDL endorsement test provided for in Section 53-3-205 is [~~\$7~~] \$9.

~~[(22)]~~ (23) A duplicate class A, B, C, or D license certificate under Section 53-3-215 is [~~\$18~~] \$23.

~~[(23)]~~ (24) (a) A license reinstatement application under Section 53-3-205 is [~~\$30~~] \$40.

(b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or combination of alcohol and any drug-related offense is [~~\$35~~] \$45 in addition to the fee under Subsection [~~(23)~~] (24)(a).

~~[(24)]~~ (25) (a) An administrative fee for license reinstatement after an alcohol, drug, or combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under Part 4, Uniform Commercial Driver License Act, is [~~\$230~~] \$255.

(b) This administrative fee is in addition to the fees under Subsection [~~(23)~~] (24).

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~~[(25)]~~ (26) (a) An administrative fee for providing the driving record of a driver under Section 53-3-104 or 53-3-420 is ~~[\$6]~~ \$8.

(b) The division may not charge for a report furnished under Section 53-3-104 to a municipal, county, state, or federal agency.

~~[(26)]~~ (27) A rescheduling fee under Section 53-3-205 or 53-3-407 is \$25.

~~[(27)]~~ (28) (a) Except as provided under Subsections ~~[(27)]~~ (28)(b) and (c), an identification card application under Section 53-3-808 is ~~[\$18]~~ \$23.

(b) An identification card application under Section 53-3-808 for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is ~~[\$13]~~ \$17.

(c) A fee may not be charged for an identification card application if the person applying:

- (i) has not been issued a Utah driver license;
- (ii) is indigent; and
- (iii) is at least 18 years of age.

~~[(28)]~~ (29) An extension of a regular identification card under Subsection 53-3-807(5) for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is ~~[\$13]~~ \$17.

~~[(29)]~~ (30) An extension of a regular identification card under Subsection 53-3-807(6) is ~~[\$18]~~ \$23.

~~[(30)]~~ (31) In addition to any license application fees collected under this chapter, the division shall impose on individuals submitting fingerprints in accordance with Section 53-3-205.5 the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

~~[(31)]~~ (32) An original mobility vehicle permit application under Section 41-6a-1118 is ~~[\$25]~~ \$30.

~~[(32)]~~ (33) A renewal of a mobility vehicle permit under Section 41-6a-1118 is ~~[\$25]~~ \$30.

~~[(33)]~~ (34) A duplicate mobility vehicle permit under Section 41-6a-1118 is ~~[\$10]~~ \$12.

Section 4. Section 53-3-106 is amended to read:

**53-3-106. Disposition of revenues under this chapter -- Restricted account created -- Uses as provided by appropriation -- Nonlapsing.**

(1) ~~+~~ There is created within the Transportation Fund a restricted account known as



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the "Department of Public Safety Restricted Account."

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

(a) all money received under this chapter;

(b) administrative fees received according to the fee schedule authorized under this chapter and Section 63J-1-504;

(c) beginning on January 1, 2013, money received in accordance with Section 41-1a-1201; and

(d) any 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 in the account.

(4) The expenses of the department in carrying out this chapter shall be provided for by legislative appropriation from this account.

(5) The amount in excess of \$45 of the fees collected under Subsection 53-3-105~~(24)~~(25) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117, except that of the amount in excess of \$45, \$100 shall be deposited in the State Laboratory Drug Testing Account created in Section 26-1-34.

(6) All money received under Subsection 41-6a-1406(6)(b)(ii) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117.

(7) Beginning in fiscal year 2009-10, the Legislature shall appropriate \$100,000 annually from the account to the state medical examiner appointed under Section 26-4-4 for use in carrying out duties related to highway crash deaths under Subsection 26-4-7(1).

(8) The division shall remit the fees collected under Subsection 53-3-105~~(30)~~(31) to the Bureau of Criminal Identification to cover the costs for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(9) (a) Beginning on January 1, 2013, the Legislature shall appropriate all money received in the account under Section 41-1a-1201 to the Utah Highway Patrol Division for field operations.

(b) The Legislature may appropriate additional money from the account to the Utah Highway Patrol Division for law enforcement purposes.

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(10) Appropriations to the department from the account are nonlapsing.

(11) The department shall report to the Department of Health, on or before December 31, the amount the department expects to collect under Subsection 53-3-105~~[(24)]~~[(25)] in the next fiscal year.

Section ~~33~~5. 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

(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

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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) A disclosure under Subsection (3)(a)(i) 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 made under a contract with the insurer or a designee of an insurer.

(c) A disclosure under Subsection (3)(a)(ii) or (iii) 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 a current employee of an employer;
- (iii) be made under a contract with the employer or a designee of an employer; and
- (iv) include an indication of whether the driver has had a change reflected in the driver's:

(A) driving status;

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- (B) license class;
- (C) medical self-certification status; or
- (D) medical examiner's certificate under 49 C.F.R. Sec. 391.45.
- (d) The contract under Subsection (3)(b)(iii) or (c)(iii) 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 charge fees:
  - (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~~] for each document prepared under the seal of the division and deliver upon request, a certified copy of any record of the division, and charge a fee [~~under~~] set in accordance with 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;
  - (d) the form of a signature required under this chapter which may include electronic format;

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(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 ~~44~~6. 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 and requirements are completed.

(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~~] entitles 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~~] when accompanied by the fee provided in Subsection 53-3-105(16);

(b) not more than two attempts to pass a skills test when accompanied by a fee in Subsection 53-3-105(17) ~~[(a)]~~ within six months of the date of application;

~~[(b)]~~ (c) both a commercial driver instruction permit and a temporary license permit for the license class held before the applicant submits the application if needed after the knowledge test is passed; and

~~[(c)]~~ (d) 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) (a) 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.

(b) (i) Beginning July 1, 2015, an out-of-state resident who holds a valid CDIP issued by a state or jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test administered by the division if the out-of-state resident pays the fee provided in Subsection 53-3-105~~[(20)(b)]~~(17) ~~[(a)]~~.

(ii) The division shall:

(A) electronically transmit skills test results for an out-of-state resident to the licensing agency in the state or jurisdiction in which the person has obtained a valid CDIP; and

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(B) provide the out-of-state resident with documentary evidence upon successful completion of the skills test.

(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) (i) A regular license certificate and any endorsement to the regular license certificate held by a person described in Subsection (7)(e)(ii), 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, the person has been discharged, or the person's assignment has been changed or terminated, unless:

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

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

(ii) The provisions in Subsection (7)(e)(i) apply to a person:

(A) ordered to active duty and stationed outside of Utah in any of the armed forces of the United States;

(B) who is an immediate family member or dependent of a person described in Subsection (7)(e)(ii)(A) and is residing outside of Utah;

(C) who is a civilian employee of the United States State Department or United States Department of Defense and is stationed outside of the United States; or

(D) who is an immediate family member or dependent of a person described in Subsection (7)(e)(ii)(C) and is residing outside of the United States.

(f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a renewal to a limited-term license certificate expires:

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(A) 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

(B) on the date of issuance 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.

(ii) A limited-term license certificate or a renewal to a limited-term license certificate issued to an approved asylee or a refugee expires on the birth date of the applicant in the fourth year following the year that the limited-term license certificate was issued.

(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.

(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 in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(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:

(A) the applicant's full legal name;

(B) the applicant's birth date;

(C) the applicant's 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;

(III) the applicant's temporary identification number (ITIN) issued by the Internal

Revenue Service for a person who:

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

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

(IV) other documentary evidence approved by the division;

(E) the applicant's 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); and



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(F) fingerprints and a photograph in accordance with Section 53-3-205.5 if the person is applying for a driving privilege card;

(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 United States 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;

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

(VII) conditional permanent resident alien status;

(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);

(vii) state whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(viii) state whether the applicant is a veteran of the United States military, provide

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verification that the applicant was granted an honorable or general discharge from the United States Armed Forces, and state whether the applicant does or does not authorize sharing the information with the state Department of Veterans' and Military 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;

(B) temporary identification number (ITIN); or

(C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

(ii) indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(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)(c), if an applicant receives a license in a higher class than what the applicant originally was issued:

(i) the license application shall be treated as an original application; and

(ii) license and endorsement fees shall be assessed under Section 53-3-105.

(b) An applicant that receives a downgraded license in a lower license class during an existing license cycle that has not expired:

(i) may be issued a duplicate license with a lower license classification for the remainder of the existing license cycle; and

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(ii) shall be assessed a duplicate license fee under Subsection 53-3-105~~[(22)]~~(23) if a duplicate license is issued under Subsection (10)(b)(i).

(c) An applicant who has received a downgraded license in a lower license class under Subsection (10)(b):

(i) may, when eligible, receive a duplicate license in the highest class previously issued during a license cycle that has not expired for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105~~[(22)]~~(23) if a duplicate license is issued under Subsection (10)(c)(i).

(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 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.

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(16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans' and Military 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.

(19) (a) Until December 1, 2014, a person born on or after December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2014, a person born on or after December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (19), the division shall cancel the Utah identification card on December 1, 2014.

(20) (a) Until December 1, 2017, a person born prior to December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2017, a person born prior to December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah

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identification card as required under this Subsection (20), the division shall cancel the Utah identification card on December 1, 2017.

(21) (a) A person who applies for an original motorcycle endorsement to a regular license certificate is exempt from the requirement to pass the knowledge and skills test to be eligible for the motorcycle endorsement if the person:

(i) is a resident of the state of Utah;

(ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed forces of the United States; or

(B) is an immediate family member or dependent of a person described in Subsection (21)(a)(ii)(A) and is residing outside of Utah;

(iii) has a digitized driver license photo on file with the division;

(iv) provides proof to the division of the successful completion of a certified Motorcycle Safety Foundation rider training course; and

(v) provides the necessary information and documentary evidence required under Subsection (8).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(i) establishing the procedures for a person to obtain a motorcycle endorsement under this Subsection (21); and

(ii) identifying the applicable restrictions for a motorcycle endorsement issued under this Subsection (21).

### **Section 7. Section 53-3-223 is amended to read:**

#### **53-3-223. Chemical test for driving under the influence -- Temporary license -- Hearing and decision -- Suspension and fee -- Judicial review.**

(1) (a) If a peace officer has reasonable grounds to believe that a person may be violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a certain blood or breath alcohol concentration and driving under the influence of any drug, alcohol, or combination of a drug and alcohol or while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517, the peace officer may, in connection with arresting the person, request that the person submit to a chemical test or tests to be administered in compliance with the standards

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under Section 41-6a-520.

(b) In this section, a reference to Section 41-6a-502 includes any similar local ordinance adopted in compliance with Subsection 41-6a-510(1).

(2) The peace officer shall advise a person prior to the person's submission to a chemical test that a test result indicating a violation of Section 41-6a-502 or 41-6a-517 shall, and the existence of a blood alcohol content sufficient to render the person incapable of safely driving a motor vehicle may, result in suspension or revocation of the person's license to drive a motor vehicle.

(3) If the person submits to a chemical test and the test results indicate a blood or breath alcohol content in violation of Section 41-6a-502 or 41-6a-517, or if a peace officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Section 41-6a-502, a peace officer shall, on behalf of the division and within 24 hours of arrest, give notice of the division's intention to suspend the person's license to drive a motor vehicle.

(4) (a) When a peace officer gives notice on behalf of the division, the peace officer shall:

- (i) take the Utah license certificate or permit, if any, of the driver;
- (ii) issue a temporary license certificate effective for only 29 days from the date of arrest; and
- (iii) supply to the driver, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.

(b) A citation issued by a peace officer may, if provided in a manner specified by the division, also serve as the temporary license certificate.

(5) As a matter of procedure, a peace officer shall send to the division within 10 calendar days after the day on which notice is provided:

- (a) the person's license certificate;
- (b) a copy of the citation issued for the offense;
- (c) a signed report in a manner specified by the division indicating the chemical test results, if any; and
- (d) any other basis for the peace officer's determination that the person has violated Section 41-6a-502 or 41-6a-517.

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(6) (a) Upon request in a manner specified by the division, the division shall grant to the person an opportunity to be heard within 29 days after the date of arrest. The request to be heard shall be made within 10 calendar days of the day on which notice is provided under Subsection (5).

(b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the division in:

(A) the county in which the arrest occurred; or

(B) a county that is adjacent to the county in which the arrest occurred.

(ii) The division may hold a hearing in some other county if the division and the person both agree.

(c) The hearing shall be documented and shall cover the issues of:

(i) whether a peace officer had reasonable grounds to believe the person was driving a motor vehicle in violation of Section 41-6a-502 or 41-6a-517;

(ii) whether the person refused to submit to the test; and

(iii) the test results, if any.

(d) (i) In connection with a hearing the division or its authorized agent:

(A) may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers; or

(B) may issue subpoenas for the attendance of necessary peace officers.

(ii) The division shall pay witness fees and mileage from the Transportation Fund in accordance with the rates established in Section 78B-1-119.

(e) The division may designate one or more employees to conduct the hearing.

(f) Any decision made after a hearing before any designated employee is as valid as if made by the division.

(7) (a) If, after a hearing, the division determines that a peace officer had reasonable grounds to believe that the person was driving a motor vehicle in violation of Section 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the notice, or if a hearing is not requested under this section, the division shall:

(i) if the person is 21 years of age or older at the time of arrest and the arrest was made on or after July 1, 2009, suspend the person's license or permit to operate a motor vehicle for a period of:

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(A) 120 days beginning on the 30th day after the date of arrest for a first suspension; or

(B) two years beginning on the 30th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(ii) if the person is under 21 years of age at the time of arrest and the arrest was made on or after May 14, 2013:

(A) suspend the person's license or permit to operate a motor vehicle:

(I) for a period of six months, beginning on the 30th day after the date of arrest for a first suspension; or

(II) until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 30th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(B) deny the person's application for a license or learner's permit:

(I) for a period of six months for a first suspension, if the person has not been issued an operator license; or

(II) until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 30th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years.

(b) The division shall deny or suspend a person's license for the denial and suspension periods in effect:

(i) prior to July 1, 2009, for an offense that was committed prior to July 1, 2009;

(ii) from July 1, 2009, through June 30, 2011, if:

(A) the person was 20 years 6 months of age or older but under 21 years of age at the time of arrest; and

(B) the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; or

(iii) prior to May 14, 2013, for an offense that was committed prior to May 14, 2013.

(c) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall reinstate a person's license prior to completion of the 120 day suspension period imposed under Subsection (7)(a)(i)(A):

(A) immediately upon receiving written verification of the person's dismissal of a charge for a violation of Section 41-6a-502 or 41-6a-517, if the written verification is received



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prior to completion of the suspension period; or

(B) no sooner than 60 days beginning on the 30th day after the date of arrest upon receiving written verification of the person's reduction of a charge for a violation of Section 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the suspension period.

(ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A) or (7)(b), the division shall reinstate a person's license prior to completion of the 120-day suspension period imposed under Subsection (7)(a)(i)(A) immediately upon receiving written verification of the person's conviction of impaired driving under Section 41-6a-502.5 if:

(A) the written verification is received prior to completion of the suspension period; and

(B) the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed the program of a driving under the influence court as defined in Section 41-6a-501.

(iii) If a person's license is reinstated under this Subsection (7)(c), the person is required to pay the license reinstatement fees under Subsections 53-3-105~~[(23) and (24)]~~ and (25).

(iv) The driver license reinstatements authorized under this Subsection (7)(c) only apply to a 120 day suspension period imposed under Subsection (7)(a)(i)(A).

(8) (a) Notwithstanding the provisions in Subsection (7)(b)(iii), the division shall shorten a person's two-year license suspension period that is currently in effect to a six-month suspension period if:

(i) the driver was under the age of 19 at the time of arrest;

(ii) the offense was a first offense that was committed prior to May 14, 2013; and

(iii) the suspension under Subsection (7)(b)(iii) was based on the same occurrence upon which the following written verifications are based:

(A) a court order shortening the driver license suspension for a violation of Section 41-6a-502 pursuant to Subsection 41-6a-509(8);

(B) a court order shortening the driver license suspension for a violation of Section 41-6a-517 pursuant to Subsection 41-6a-517(11);

(C) a court order shortening the driver license suspension for a violation of Section

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32B-4-409;

(D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409; or

(G) other written documentation acceptable to the division.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing requirements for acceptable written documentation to shorten a person's driver license suspension period under Subsection (8)(a)(iii)(G).

(c) If a person's license sanction is shortened under this Subsection (8), the person is required to pay the license reinstatement fees under Subsections 53-3-105~~[(23) and (24)]~~ and (25).

(9) (a) The division shall assess against a person, in addition to any fee imposed under Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to cover administrative costs, which shall be paid before the person's driving privilege is reinstated. This fee shall be cancelled if the person obtains an unappealed division hearing or court decision that the suspension was not proper.

(b) A person whose license has been suspended by the division under this section following an administrative hearing may file a petition within 30 days after the suspension for a hearing on the matter which, if held, is governed by Section 53-3-224.

(10) (a) Notwithstanding the provisions in Subsection (7)(a)(i) or (ii), the division shall reinstate a person's license before completion of the suspension period imposed under Subsection (7)(a)(i) or (ii) if the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If a person's license is reinstated under Subsection (10)(a), the person is required to pay the license reinstatement fees under Subsections 53-3-105~~[(23) and (24)]~~ and (25).

Section 8. Section 53-3-231 is amended to read:

**53-3-231. Person under 21 may not operate a vehicle or motorboat with**

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**detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing and decision -- Suspension of license or operating privilege -- Fees -- Judicial review -- Referral to local substance abuse authority or program.**

(1) (a) As used in this section:

(i) "Local substance abuse authority" has the same meaning as provided in Section 62A-15-102.

(ii) "Substance abuse program" means any substance abuse program licensed by the Department of Human Services or the Department of Health and approved by the local substance abuse authority.

(b) Calculations of blood, breath, or urine alcohol concentration under this section shall be made in accordance with the procedures in Subsection 41-6a-502(1).

(2) (a) A person younger than 21 years of age may not operate or be in actual physical control of a vehicle or motorboat with any measurable blood, breath, or urine alcohol concentration in the person's body as shown by a chemical test.

(b) A person who violates Subsection (2)(a), in addition to any other applicable penalties arising out of the incident, shall have the person's operator license denied or suspended as provided in Subsection (8).

(3) (a) When a peace officer has reasonable grounds to believe that a person may be violating or has violated Subsection (2), the peace officer may, in connection with arresting the person for a violation of Section 32B-4-409, request that the person submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6a-520.

(b) The peace officer shall advise a person prior to the person's submission to a chemical test that a test result indicating a violation of Subsection (2)(a) will result in denial or suspension of the person's license to operate a motor vehicle or a refusal to issue a license.

(c) If the person submits to a chemical test and the test results indicate a blood, breath, or urine alcohol content in violation of Subsection (2)(a), or if a peace officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Subsection (2)(a), a peace officer shall, on behalf of the division and within 24 hours of the arrest, give notice of the division's intention to deny or suspend the person's license to operate a vehicle or refusal to issue a license under this section.

(4) When a peace officer gives notice on behalf of the division, the peace officer shall:

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- (a) take the Utah license certificate or permit, if any, of the operator;
  - (b) issue a temporary license certificate effective for only 29 days from the date of arrest if the driver had a valid operator's license; and
  - (c) supply to the operator, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.
- (5) A citation issued by a peace officer may, if provided in a manner specified by the division, also serve as the temporary license certificate under Subsection (4)(b).
- (6) As a matter of procedure, a peace officer shall send to the division within 10 calendar days after the day on which notice is provided:
- (a) the person's driver license certificate, if any;
  - (b) a copy of the citation issued for the offense;
  - (c) a signed report in a manner specified by the Driver License Division indicating the chemical test results, if any; and
  - (d) any other basis for a peace officer's determination that the person has violated Subsection (2).
- (7) (a) (i) Upon request in a manner specified by the division, the Driver License Division shall grant to the person an opportunity to be heard within 29 days after the date of arrest under Section 32B-4-409.
- (ii) The request shall be made within 10 calendar days of the day on which notice is provided.
- (b) (i) Except as provided in Subsection (7)(b)(ii), a hearing, if held, shall be before the division in:
- (A) the county in which the arrest occurred; or
  - (B) a county that is adjacent to the county in which the arrest occurred.
- (ii) The division may hold a hearing in some other county if the division and the person both agree.
- (c) The hearing shall be documented and shall cover the issues of:
- (i) whether a peace officer had reasonable grounds to believe the person was operating a motor vehicle or motorboat in violation of Subsection (2)(a);
  - (ii) whether the person refused to submit to the test; and
  - (iii) the test results, if any.

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(d) In connection with a hearing, the division or its authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and records as defined in Section 46-4-102.

(e) One or more members of the division may conduct the hearing.

(f) 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.

(8) If, after a hearing, the division determines that a peace officer had reasonable grounds to believe that the person was driving a motor vehicle in violation of Subsection (2)(a), if the person fails to appear before the division as required in the notice, or if the person does not request a hearing under this section, the division shall for a person under 21 years of age on the date of arrest:

(a) deny the person's license until the person complies with Subsection (12)(b)(i) but for a period of not less than six months beginning on the 30th day after the date of arrest for a first offense under Subsection (2)(a) committed on or after May 14, 2013;

(b) suspend the person's license until the person complies with Subsection (12)(b)(i) and until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 30th day after the date of arrest for a second or subsequent offense under Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a prior denial or suspension;

(c) deny the person's application for a license or learner's permit until the person complies with Subsection (12)(b)(i) but for a period of not less than six months if:

(i) the person has not been issued an operator license; and

(ii) the suspension is for a first offense under Subsection (2)(a) committed on or after July 1, 2009;

(d) deny the person's application for a license or learner's permit until the person complies with Subsection (12)(b)(i) and until the person is 21 years of age or for a period of two years, whichever is longer, if:

(i) the person has not been issued an operator license; and

(ii) the suspension is for a second or subsequent offense under Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a prior denial or suspension; or

(e) deny or suspend a person's license for the denial and suspension periods in effect:

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(i) prior to July 1, 2009, for a violation under Subsection (2)(a) that was committed prior to July 1, 2009;

(ii) from July 1, 2009, through June 30, 2011, if the person was 20 years 6 months of age or older but under 21 years of age at the time of arrest and the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; or

(iii) prior to May 14, 2013, for a violation under Subsection (2)(a) that was committed prior to May 14, 2013.

(9) (a) Notwithstanding the provisions in Subsection (8)(e)(iii), the division shall shorten a person's one-year license suspension or denial period that is currently in effect to a six-month suspension or denial period if:

(i) the driver was under the age of 19 at the time of arrest;

(ii) the offense was a first offense that was committed prior to May 14, 2013; and

(iii) the suspension or denial under Subsection (8)(e)(iii) was based on the same occurrence upon which the following written verifications are based:

(A) a court order shortening the driver license suspension for a violation of Section 41-6a-502 pursuant to Subsection 41-6a-509(8);

(B) a court order shortening the driver license suspension for a violation of Section 41-6a-517 pursuant to Subsection 41-6a-517(11);

(C) a court order shortening the driver license suspension for a violation of Section 32B-4-409;

(D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409; or

(G) other written documentation acceptable to the division.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing requirements for acceptable documentation to shorten a person's driver license suspension or denial period under this Subsection (9).

(c) If a person's license sanction is shortened under this Subsection (9), the person is

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required to pay the license reinstatement fees under Subsections 53-3-105~~[(23) and (24)]~~ (25).

(10) (a) (i) Following denial or suspension the division shall assess against a person, in addition to any fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover administrative costs.

(ii) This fee shall be canceled if the person obtains an unappealed division hearing or court decision that the suspension was not proper.

(b) A person whose operator license has been denied, suspended, or postponed by the division under this section following an administrative hearing may file a petition within 30 days after the suspension for a hearing on the matter which, if held, is governed by Section 53-3-224.

(11) After reinstatement of an operator license for a first offense under this section, a report authorized under Section 53-3-104 may not contain evidence of the denial or suspension of the person's operator license under this section if the person has not been convicted of any other offense for which the denial or suspension may be extended.

(12) (a) In addition to the penalties in Subsection (8), a person who violates Subsection (2)(a) shall:

(i) obtain an assessment and recommendation for appropriate action from a substance abuse program, but any associated costs shall be the person's responsibility; or

(ii) be referred by the division to the local substance abuse authority for an assessment and recommendation for appropriate action.

(b) (i) Reinstatement of the person's operator license or the right to obtain an operator license within five years of the effective date of the license sanction under Subsection (8) is contingent upon successful completion of the action recommended by the local substance abuse authority or the substance abuse program.

(ii) The local substance abuse authority's or the substance abuse program's recommended action shall be determined by an assessment of the person's alcohol abuse and may include:

(A) a targeted education and prevention program;

(B) an early intervention program; or

## SB0016S03 compared with SB0016S02

(C) a substance abuse treatment program.

(iii) Successful completion of the recommended action shall be determined by standards established by the Division of Substance Abuse and Mental Health.

(c) At the conclusion of the penalty period imposed under Subsection (2), the local substance abuse authority or the substance abuse program shall notify the division of the person's status regarding completion of the recommended action.

(d) The local substance abuse authorities and the substance abuse programs shall cooperate with the division in:

(i) conducting the assessments;

(ii) making appropriate recommendations for action; and

(iii) notifying the division about the person's status regarding completion of the recommended action.

(e) (i) The local substance abuse authority is responsible for the cost of the assessment of the person's alcohol abuse, if the assessment is conducted by the local substance abuse authority.

(ii) The local substance abuse authority or a substance abuse program selected by a person is responsible for:

(A) conducting an assessment of the person's alcohol abuse; and

(B) for making a referral to an appropriate program on the basis of the findings of the assessment.

(iii) (A) The person who violated Subsection (2)(a) is responsible for all costs and fees associated with the recommended program to which the person selected or is referred.

(B) The costs and fees under Subsection (12)(e)(iii)(A) shall be based on a sliding scale consistent with the local substance abuse authority's policies and practices regarding fees for services or determined by the substance abuse program.

Section ~~53-5-706~~9. Section **53-5-706** is amended to read:

### **53-5-706. Permit -- Fingerprints transmitted to bureau -- Report from bureau.**

(1) (a) Except as provided in Subsection (2), the fingerprints of each applicant for a permit under Section 53-5-707 or 53-5-707.5 shall be taken on a form prescribed by the bureau.

(b) Upon receipt of the fingerprints, the applicant fingerprint card fee prescribed in Section 53-10-108, and the fee prescribed in Section 53-5-707 or 53-5-707.5, the bureau shall



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conduct a search of its files for criminal history information pertaining to the applicant, and shall request the Federal Bureau of Investigation to conduct a similar search through its files.

(c) If the fingerprints are insufficient for the Federal Bureau of Investigation to conduct a search of its files for criminal history information, the application or concealed firearm permit may be denied, suspended, or revoked until sufficient fingerprints are submitted by the applicant.

(2) (a) If the permit applicant has previously applied to the bureau for a permit to carry concealed firearms, the bureau shall note the previous identification numbers and other data which would provide positive identification in the files of the bureau on the copy of any subsequent permit submitted to the bureau in accordance with this section.

(b) No additional application form, fingerprints, or fee are required under this Subsection (2).

Section ~~6~~10. Section **53-5-707** is amended to read:

### **53-5-707. Concealed firearm permit -- Fees -- Concealed Weapons Account.**

(1) (a) An applicant for a concealed firearm permit shall pay a fee of [~~\$24.75~~] \$25 at the time of filing an application.

(b) A nonresident applicant shall pay an additional \$10 for the additional cost of processing a nonresident application.

(c) The bureau shall waive the initial fee for an applicant who is a law enforcement officer under Section 53-13-103.

(d) Concealed firearm permit renewal fees for active duty service members and the spouse of an active duty service member shall be waived.

(2) The renewal fee for the permit is [~~\$15.~~] \$20. A nonresident shall pay an additional \$5 for the additional cost of processing a nonresidential renewal.

(3) The replacement fee for the permit is \$10.

(4) (a) The late fee for the renewal permit is \$7.50.

(b) As used in this section, "late fee" means the fee charged by the bureau for a renewal submitted on a permit that has been expired for more than 30 days but less than one year.

(5) (a) There is created a restricted account within the General Fund known as the "Concealed Weapons Account."

(b) The account shall be funded from fees collected under this section and Section

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53-5-707.5.

(c) Funds in the account shall be used to cover costs relating to the issuance of concealed firearm permits under this part and may not be used for any other purpose.

(6) (a) The bureau may collect any fees charged by an outside agency for additional services required by statute as a prerequisite for issuance of a permit.

~~[(b) The bureau may modify the fee under Subsection (1)(a) by adjusting that fee so that the total of the fee under Subsection (1)(a) and the fee under Subsection (6)(a) is the nearest even dollar amount to that total.]~~

~~[(c)]~~ (b) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the appropriate agency.

(7) The bureau shall make an annual report in writing to the Legislature's Law Enforcement and Criminal Justice Interim Committee on the amount and use of the fees collected under this section and Section 53-5-707.5.

Section ~~{7}~~ 11. Section **53-5-707.5** is amended to read:

### **53-5-707.5. Provisional concealed firearm permit -- Fees -- Disposition of fees.**

(1) (a) An applicant for a provisional concealed firearm permit, as described in Section 53-5-704.5, shall pay a fee of [~~\$24.75~~] \$25 at the time of filing an application.

(b) A nonresident applicant shall pay an additional \$10 for the additional cost of processing a nonresident application.

(2) The replacement fee for the permit is \$10.

(3) Fees collected under this section shall be remitted to the Concealed Weapons Account, as described in Subsection 53-5-707(5).

(4) (a) The bureau may collect any fees charged by an outside agency for additional services required by statute as a prerequisite for issuance of a permit.

~~[(b) The bureau may modify the fee under Subsection (1)(a) by adjusting that fee so that the total of the fee under Subsection (1)(a) and the fee under Subsection (4)(a) is the nearest even dollar amount to that total.]~~

~~[(c)]~~ (b) The bureau shall promptly forward any fees collected under Subsection (4)(a) to the appropriate agency.

Section ~~{8}~~ 12. Section **53-7-223** is amended to read:

### **53-7-223. State license for display operators, special effects operators, and flame**

## **SB0016S03 compared with SB0016S02**

### **effects operators -- Permit -- Fee -- Division duties -- Revocation.**

(1) (a) A person may not purchase or possess display fireworks, special effects fireworks, or flame effects, or discharge any of them in public unless the person has obtained the appropriate license from the division, except under Subsection (1)(b).

(b) (i) Subsection (1)(a) does not apply to any person who participates in a meeting, as limited under Subsection (1)(b)(ii), with other persons solely to receive training, to practice, or provide instruction regarding flame effects performance.

(ii) A meeting under Subsection (1)(b)(i) may include a nonpaying and unsolicited audience of not more than 25 persons.

(2) The division shall:

(a) issue an annual license to any display operator, special effects operator, or flame effects operator who:

(i) applies for the permit;

(ii) pays [~~a \$40~~] the fee set in accordance with Section 63J-1-504;

(iii) demonstrates proof of competence; and

(iv) certifies that the operator will comply with board rules governing placement and discharge of fireworks or flame effects;

(b) provide the licensee with a copy of the rules governing placement and discharge of fireworks or flame effects made under Section 53-7-204; and

(c) together with county and municipal officers enforce Sections 53-7-220 through 53-7-225.

(3) The division may:

(a) revoke a license issued under this section for cause;

(b) seize display and special effects fireworks, fireworks, and unclassified fireworks that are offered for sale, sold, or in the possession of an individual in violation of Sections 53-7-220 through 53-7-225;

(c) prevent or stop the use of flame effects that is unlawful or that is endangering persons or property; and

(d) create application and certification forms.

Section ~~9~~13. Section **53-7-224** is amended to read:

**53-7-224. Licensing importers and wholesalers -- Fee.**

## SB0016S03 compared with SB0016S02

The division shall:

- (1) annually license each importer and wholesaler of pyrotechnic devices; and
- (2) charge an annual license fee ~~[of \$250]~~ set in accordance with Section 63J-1-504.

Section ~~†10~~14. Section **53-9-111** is amended to read:

### **53-9-111. License and registration fees -- Deposit in General Fund.**

(1) Fees for individual and agency licensure and renewal ~~[are as follows:]~~ shall be in accordance with Section 63J-1-504.

~~[(a) for an original agency license application and license, \$215, plus an additional fee for the costs of fingerprint processing and background investigation;]~~

~~[(b) for the renewal of an agency license, \$115;]~~

~~[(c) for an original registrant or apprentice license application and license, \$115, plus an additional fee for the costs of fingerprint processing and background investigation;]~~

~~[(d) for the renewal of a registrant or apprentice license, \$65;]~~

~~[(e) for filing an agency renewal application more than 30 days after the expiration date of the license, a delinquency fee of \$65;]~~

~~[(f) for filing a registrant or apprentice renewal application more than 30 days after the expiration date of the registration, a delinquency fee of \$45;]~~

~~[(g) for the reinstatement of any license, \$65;]~~

~~[(h) for a duplicate identification card, \$25; and]~~

~~[(i) for the fingerprint processing fee, an amount that does not exceed the cost to the bureau charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information.]~~

(2) (a) The bureau may renew a license granted under this chapter:

- (i) to a resident of the state;
- (ii) upon receipt of a renewal application on forms as prescribed by the bureau; and
- (iii) upon receipt of the fees prescribed in Subsection (1).

(b) (i) The renewal of a license requires the filing of all certificates of insurance or proof of surety bond as required by this chapter.

(ii) Renewal of a license may not be granted more than 180 days after expiration.

(c) A licensee may not engage in activity subject to this chapter during the period between the date of expiration of the license and the renewal of the license.

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(3) (a) The bureau shall renew a suspended license if:

(i) the period of suspension has been completed;

(ii) the bureau has received a renewal application from the applicant on forms prescribed by the bureau; and

(iii) the applicant has:

(A) filed all certificates of insurance or proof of surety bond as required by this chapter; and

(B) paid the fees required by this section for renewal, including a delinquency fee if the application is not received by the bureau within 30 days of the termination of the suspension.

(b) Renewal of the license does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in activity regulated by this chapter, or in other activity or conduct in violation of the order or judgment by which the license was suspended.

(4) The bureau may not reinstate a revoked license or accept an application for a license from a person whose license has been revoked for at least one year from the date of revocation.

(5) All fees, except the fingerprint processing fee, collected by the bureau under this section shall be deposited in the General Fund.

Section ~~411~~15. Section **53-10-108** is amended to read:

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

(1) As used in this section:

(a) "FBI Rap Back System" means the rap back system maintained by the Federal Bureau of Investigation.

(b) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

(c) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

(2) Dissemination of information from a criminal history record, including information obtained from a fingerprint background check or name check, or warrant of arrest information

## **SB0016S03 compared with SB0016S02**

from division files is limited to:

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

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

(c) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

(d) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice; and

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(e) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(f) (i) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and

(ii) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

(g) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity; and

(h) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

(3) An agreement under Subsection (2)(f) or (2)(h) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

(4) (a) Before requesting information under Subsection (2)(g), a qualifying entity must obtain a signed waiver from the person whose information is requested.

(b) The waiver must notify the signee:

(i) that a criminal history background check will be conducted;

## **SB0016S03 compared with SB0016S02**

(ii) who will see the information; and

(iii) how the information will be used.

(c) Information received by a qualifying entity under Subsection (2)(g) may only be:

(i) available to persons involved in the hiring or background investigation of the employee; and

(ii) used for the purpose of assisting in making an employment or promotion decision.

(d) A person who disseminates or uses information obtained from the division under Subsection (2)(g) for purposes other than those specified under Subsection (4)(c), in addition to any penalties provided under this section, is subject to civil liability.

(e) A qualifying entity that obtains information under Subsection (2)(g) shall provide the employee or employment applicant an opportunity to:

(i) review the information received as provided under Subsection (9); and

(ii) respond to any information received.

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (4).

(g) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsection (2)(g).

(5) (a) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except under Subsection (5)(b), (c), or (d).

(b) A criminal history provided to an agency pursuant to Subsection (2)(e) may be provided by the agency to the person who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the

## **SB0016S03 compared with SB0016S02**

purposes of complying with Subsection 62A-5-103.5(5), provide a criminal history record to the state agency or the agency's designee.

(6) The division may not disseminate criminal history record information to qualifying entities under Subsection (2)(g) regarding employment background checks if the information is related to charges:

- (a) that have been declined for prosecution;
- (b) that have been dismissed; or
- (c) regarding which a person has been acquitted.

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

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

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

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

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (9)(a) [~~is \$15. This fee remains in effect until changed by the commissioner through the process under~~] shall be set in accordance with Section 63J-1-504.

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

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

(10) The private security agencies as provided in Subsection (2)(f)(ii):

(a) shall be charged for access; and

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

(11) Before providing information requested under this section, the division shall give



## **SB0016S03 compared with SB0016S02**

priority to criminal justice agencies needs.

(12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted 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, or to which access is granted by the division shall inform the commissioner and the director of the Utah Bureau of Criminal Identification of the unauthorized use.

(13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in Subsection (2)(b) may request that the division register fingerprints taken for the purpose of conducting current and future criminal background checks under this section with:

- (i) the WIN Database rap back system, or any successor system;
- (ii) the FBI Rap Back System; or
- (iii) a system maintained by the division.

(b) A qualifying entity or an entity described in Subsection (2)(b) may only make a request under Subsection (13)(a) if the entity:

- (i) has the authority through state or federal statute or federal executive order;
- (ii) obtains a signed waiver from the individual whose fingerprints are being registered;

and

(iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives notifications for individuals with whom the entity maintains an authorizing relationship.

(14) The division is authorized to submit fingerprints to the FBI Rap Back System to be retained in the FBI Rap Back System for the purpose of being searched by future submissions to the FBI Rap Back System, including latent fingerprint searches.

~~[(15)(a)(i) The applicant fingerprint card fee under Subsection (2) is \$20.]~~

~~[(ii) The name check fee under Subsection (2) is \$15.]~~

~~[(iii) The fee to register fingerprints under Subsection (13)(a)(i) is \$5.]~~

~~[(iv) The fees described in this Subsection (15)(a) remain in effect until changed by the division through the process under Section 63J-1-504.]~~

## SB0016S03 compared with SB0016S02

(15) (a) The division shall impose fees set in accordance with Section 63J-1-504 for the applicant fingerprint card, name check, and to register fingerprints under Subsection (13)(a).

(b) Funds generated under this Subsection (15) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(c) The division may collect fees charged by an outside agency for services required under this section.

Section ~~{12}~~16. Section **53-11-115** is amended to read:

### **53-11-115. License fees -- Deposit in General Fund.**

(1) Fees for individual and agency licensure, registration, and renewal ~~[are:]~~ shall be set in accordance with Section 63J-1-504.

~~[(a) for an original bail enforcement agent license application and license, \$250, which shall include the costs of fingerprint processing and background investigation;]~~

~~[(b) for the renewal of a bail enforcement agent or bail bond recovery agency license, \$150;]~~

~~[(c) for an original bail recovery agent license application and license, \$150, which shall include the costs of fingerprint processing and background investigation;]~~

~~[(d) for the renewal of each bail recovery agent license, \$100;]~~

~~[(e) for an original bail recovery apprentice license application and license, \$150, which shall include the costs of fingerprint processing and background investigation;]~~

~~[(f) for the renewal of each bail recovery apprentice license, \$100;]~~

~~[(g) for filing a renewal application under Subsection (1)(b) more than 30 days after the expiration date of the license, a delinquency fee of \$50;]~~

~~[(h) for filing a renewal application under Subsection (1)(d) more than 30 days after the expiration date of the registration, a delinquency fee of \$30;]~~

~~[(i) for filing a renewal application under Subsection (1)(f) more than 30 days after the expiration date of the apprentice license, a delinquency fee of \$30;]~~

~~[(j) for the reinstatement of a bail enforcement agent or bail bond recovery agency license, \$50;]~~

~~[(k) for a duplicate identification card, \$10; and]~~

## SB0016S03 compared with SB0016S02

~~[(1) for reinstatement of an identification card, \$10.]~~

(2) (a) The bureau may renew a license granted under this chapter upon receipt of an application on forms as prescribed by the board and upon receipt of the applicable fees ~~[prescribed in Subsection (1);]~~ if the licensee's application meets all the requirements for renewal.

(b) If the bureau determines the license renewal application does not meet all the requirements for renewal, the bureau shall submit the renewal application to the board for review and action.

(c) A license may not be renewed more than 90 days after its expiration.

(d) A licensee may not engage in any activity subject to this chapter during any period between the date of expiration of the license and the renewal of the license.

(3) (a) The board may reinstate a suspended license upon completion of the term of suspension.

(b) Renewal of the license does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in any activity regulated by this chapter, or in any other activity or conduct in violation of the order or judgment by which the license was suspended.

(4) The board may not reinstate a revoked license or accept an application for a license from a person whose license has been revoked for at least one year after the date of revocation.

(5) All fees, except the fingerprint processing fee, collected by the department under this section shall be deposited in the General Fund.

Section ~~113~~17. 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 and law enforcement officers.**

(1) For purposes of this section, "valid permit to carry a concealed firearm" does not include a temporary permit issued under 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 under Section 53-3-207 as proof of identification for the purpose of establishing personal identification and residence in

## **SB0016S03 compared with SB0016S02**

this state as required under this Subsection (2).

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

(b) Subsection (3)(a) does not apply to the sale of a firearm to a Federal Firearms Licensee.

(4) (a) An individual 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 information required by Subsection (4) to the bureau immediately upon its receipt by the dealer.

(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;

(b) inform the dealer that:

(i) the records indicate the individual is 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

## **SB0016S03 compared with SB0016S02**

(d) provide a response to the requesting dealer during the call for a criminal background check, 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 firearm 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 individual 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 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records provided by the bureau under 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 [~~of \$7.50~~] for the sale of a firearm under this section. [(ii)] This fee remains in effect until changed by the bureau through the process [~~under~~] in accordance with Section 63J-1-504.

(b) (i) The dealer shall forward at one time all fees collected for criminal history 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 under Title 53, Chapter 5,

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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 bureau that the individual's concealed firearm permit is valid.

(14) A law enforcement officer, as defined in Section 53-13-103, is exempt from the background check fee required in this section for the purchase of a personal firearm to be carried while off-duty if the law enforcement officer verifies current employment by providing a letter of good standing from the officer's commanding officer and current law enforcement photo identification. This section may only be used by a law enforcement officer to purchase a personal firearm once in a 24-month period.

(15) (a) A dealer may participate in the redeemable coupon program described in this Subsection (15) and Subsection 53-10-202(18).

(b) A participating dealer shall:

(i) accept the redeemable coupon only from the individual whose name is on the coupon and apply it only toward the purchase of a gun safe;

(ii) collect the receipts from the purchase of gun safes using the redeemable coupon and send them to the Bureau of Criminal Identification for redemption; and

(iii) make the firearm safety brochure described in Subsection 53-10-202(18) available to customers free of charge.

Section ~~{14}~~18. **FY 2019 Appropriations.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

~~{ — Section 13(b). Operating and Capital Budgets.~~

+ Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

ITEM 1

To Department of Public Safety - Programs & Operations

## SB0016S03 compared with SB0016S02

<u>From General Fund</u>	<u>(\$1,115,800)</u>
<u>From Dedicated Credits Revenue</u>	<u>(\$7,407,100)</u>
<u>From Concealed Weapons Account (GFR)</u>	<u>(\$3,373,500)</u>
<u>From Statewide Warrant Ops (GFR)</u>	<u>(\$586,200)</u>
<u>From Transfers</u>	<u>(\$26,100)</u>
<u>From Pass-through</u>	<u>(\$1,600)</u>
<u>Schedule of Programs:</u>	
<u>CITS Bureau of Criminal Identification</u>	<u>(\$12,510,300)</u>

### ITEM 2

#### To Department of Public Safety - Bureau of Criminal Identification

<del>+</del> <u>From</u> General Fund	<u>\$2, <del>565</del> 615,800</u>
<u>From</u> Dedicated Credits Revenue	<u>\$6, <del>382,100</del> 291,800</u>
<u>From</u> Concealed Weapons Account (GFR)	<u>\$3, <del>373</del> 125, <del>500</del> 000</u>
<u>From</u> Statewide Warrant Ops (GFR)	<u>\$450,000</u>
<u>From</u> Transfers	<u>\$26,100</u>
<u>From</u> Pass-through	<u>\$1,600</u>
<u>Schedule of Programs:</u>	
<u>Law Enforcement/Criminal Justice Services</u>	<u>\$3, <del>015</del> 065,800</u>
<u>Non-Government/Other Services</u>	

\$9, ~~783~~ 444, ~~300~~ 500

### ITEM 3

#### To Department of Human Services - Division of Juvenile Justice Services - Community Providers

<u>From General Fund</u>	<u>(1,453,400)</u>
<u>Schedule of Programs:</u>	
<u>Provider Payments</u>	<u>(1,453,400)</u>

The Legislature intends that if the Department of Public Safety encounters a revenue shortfall by the end of FY 2019 within the Bureau of Criminal Identification line item, that the Department of Public Safety report to the Executive Offices and Criminal Justice Appropriations Subcommittee and set aside up to \$1,000,000 as a reserve amount in the Programs and Operations line item for potential reallocation in the 2019 General Session for

## **SB0016S03 compared with SB0016S02**

the Legislature to transfer up to \$1,000,000 from the Department of Public Safety - Programs and Operations line item to ensure they do not run a deficit at the close of FY 2019.

The Legislature intends that should the Department of Public Safety collect more fee revenue than what is appropriated, that the surplus fee revenue may not lapse at the end of FY 2019, but remain unexpended by the Department for potential use in FY 2020, including as an offset for any fee adjustments for FY 2020.

### Section ~~{15}~~19. Fees.

Under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following fees and rates are approved for the use and support of the government of the State of Utah for the Fiscal Year beginning July 1, 2018 and ending June 30, 2019.

Department of Public Safety

Programs & Operations

CITS Bureau of Criminal Identification

Western Identification Network (WIN) Fingerprint ~~15.00~~ 15.00

Background Check

Name Check [from 53-10-108(15)(a)(ii)] ~~15.00~~ 15.00

Fingerprint Registration [from 53-10-108(15)(a)(iii)] ~~5.00~~ 5.00

Criminal History Report ~~15.00~~ 15.00

Firearm Purchase Criminal History Background Check ~~7.50~~ 7.50

~~\_\_\_\_\_ [from 76-10-526(12)(a)(i)]~~

~~\_\_\_\_\_ Section 16~~ 7.50

Private Investigator

Original agency license application and license 215.00

Renewal of an agency license 115.00

Original registrant or apprentice license application and license 115.00

Renewal of a registrant or apprentice license 65.00

Delinquency fee for filing an agency renewal application more than  
30 days after the expiration date of the license 65.00

Delinquency fee for filing a registrant or apprentice renewal application  
more than 30 days after the expiration date of the registration 45.00



## **SB0016S03 compared with SB0016S02**

<u>Reinstatement of any license</u>	<u>65.00</u>
<u>Duplicate identification card</u>	<u>25.00</u>
<u>Bail Enforcement</u>	
<u>Original bail enforcement agent license application and license</u>	<u>250.00</u>
<u>Renewal of a bail enforcement agent or bail bond recovery agency</u> <u>license</u>	<u>150.00</u>
<u>Original bail recovery agent license application and license</u>	<u>150.00</u>
<u>Renewal of each bail recovery agent license</u>	<u>100.00</u>
<u>Original bail recovery apprentice license application and license</u>	<u>150.00</u>
<u>Renewal of each bail recovery apprentice license</u>	<u>100.00</u>
<u>Delinquency fee for filing a renewal application for a bail</u> <u>enforcement agent or bail bond recovery agency license more</u> <u>after the than 30 days expiration date of the license</u>	<u>50.00</u>
<u>Delinquency fee for filing a renewal application for bail recovery agent</u> <u>more than 30 days after the expiration date of the license</u>	<u>30.00</u>
<u>Delinquency fee for filing a renewal application for bail recovery</u> <u>apprentice license more than 30 days after the expiration date of</u> <u>the license</u>	<u>30.00</u>
<u>Reinstatement of a bail enforcement agent or bail bond recovery agency</u> <u>license</u>	<u>50.00</u>
<u>Duplicate identification card</u>	<u>10.00</u>
<u>Reinstatement of an identification card</u>	<u>10.00</u>
<u>Fire Marshall - Fire Operations</u>	
<u>Annual license for display operator, special effects operator, or flame</u> <u>effects operator</u>	<u>40.00</u>
<u>Annual license for importer and wholesaler of pyrotechnic devices</u>	<u>250.00</u>

### Section 20. Effective date.

This bill takes effect on July 1, 2018.