

TRAFFIC VIOLATION AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tim Quinn

Senate Sponsor: _____

LONG TITLE

General Description:

This bill requires an employer to enter into a contract to monitor the driving record of each employee required to have a CDL as a condition of employment.

Highlighted Provisions:

This bill:

- requires an employer to enter into a contract to monitor the driving record of each employee required to have a CDL as a condition of employment; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-3-109, as last amended by Laws of Utah 2018, Chapter 417

53-3-415, as last amended by Laws of Utah 2010, Chapter 196

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

Section 1. Section **53-3-109** is amended to read:

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



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

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

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

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

36 (c) The division may disclose personal identifying information:

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

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

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

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

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

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

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

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

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

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

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

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

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

68 (b) A disclosure under Subsection (3)(a)(i) shall:

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

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

74 (iii) be made under a contract with the insurer or a designee of an insurer.

75 (c) A disclosure under Subsection (3)(a)(ii) or (iii) shall:

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

79 (ii) be limited to the records of a current employee of an employer;

80 (iii) be made under a contract with the employer or a designee of an employer; and

81 (iv) include an indication of whether the driver has had a change reflected in the
82 driver's:

83 (A) driving status;

84 (B) license class;

85 (C) medical self-certification status; or

86 (D) medical examiner's certificate under 49 C.F.R. Sec. 391.45.

87 (d) The contract under Subsection (3)(b)(iii) or (c)(iii) shall specify:

88 (i) the criteria for searching and compiling the driving records being requested;

89 (ii) the frequency of the disclosures;

90 (iii) the format of the disclosures, which may be in bulk electronic form; and
91 (iv) a reasonable charge for the driving record disclosures under this Subsection (3).
92 (4) The division may charge fees:
93 (a) in accordance with Section 53-3-105 for searching and compiling [its] the division's
94 files or furnishing a report on the driving record of a person;
95 (b) for each document prepared under the seal of the division and deliver upon request,
96 a certified copy of any record of the division, and charge a fee set in accordance with Section
97 63J-1-504 for each document authenticated; and
98 (c) established in accordance with the procedures and requirements of Section
99 63J-1-504 for disclosing personal identifying information under Subsection (1)(c).
100 (5) Each certified copy of a driving record furnished in accordance with this section is
101 admissible in any court proceeding in the same manner as the original.
102 (6) (a) A driving record furnished under this section may only report on the driving
103 record of a person for a period of 10 years.
104 (b) Subsection (6)(a) does not apply to court or law enforcement reports, reports of
105 commercial driver license violations, or reports for commercial driver license holders.
106 (7) An employer shall enter into a contract as described in Subsection (3)(c)(iii) to
107 monitor the driving record for each employee with a CDL issued by the division that is
108 required to have a CDL to perform all or part of the employee's duties of employment.
109 [~~7~~] (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
110 Act, the division may make rules to designate:
111 (a) what information shall be included in a report on the driving record of a person;
112 (b) the form of a report or copy of the report which may include electronic format;
113 (c) the form of a certified copy, as required under Section 53-3-216, which may include
114 electronic format;
115 (d) the form of a signature required under this chapter which may include electronic
116 format;
117 (e) the form of written request to the division required under this chapter which may
118 include electronic format;
119 (f) the procedures, requirements, and formats for disclosing personal identifying
120 information under Subsection (1)(c); and

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

123 ~~[(8)]~~ (9) (a) It is a class B misdemeanor for a person to knowingly or intentionally
124 access, use, disclose, or disseminate a record created or maintained by the division or any
125 information contained in a record created or maintained by the division for a purpose
126 prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

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

130 Section 2. Section **53-3-415** is amended to read:

131 **53-3-415. Limitations on employment of commercial motor vehicle drivers.**

132 (1) An employer shall require each applicant for employment as a commercial motor
133 vehicle driver to provide the information required in Section **53-3-416** regarding the applicant's
134 employment history.

135 (2) An employer may not knowingly allow, permit, or authorize a driver to drive a
136 commercial motor vehicle during any period when the driver:

137 (a) has a CDL that is suspended, revoked, or canceled by any state;

138 (b) has lost the privilege to drive a commercial motor vehicle in a state;

139 (c) has been disqualified from driving a commercial motor vehicle;

140 (d) has more than one license;

141 (e) is subject to an out-of-service order; or

142 (f) is operating a commercial motor vehicle or employed by a motor carrier operation
143 that is subject to an out-of-service order.

144 (3) An employer may not knowingly allow, permit, require, or authorize a person to
145 violate a federal, state, or local law pertaining to railroad-highway grade crossings.

146 (4) An employer shall enter into a contract described in Subsection **53-3-109(3)(c)(iii)**
147 to monitor the driving record for each employee with a CDL issued by the division that is
148 required to have a CDL to perform all or part of the employee's duties of employment.

149 ~~[(4)]~~ (5) (a) An employer who violates Subsection (2)(a), (b), or (c) during the period
150 the driver has been disqualified under Subsection **53-3-414(9)** is subject to a civil penalty of
151 not more than \$10,000.

152 (b) An employer who is convicted of violating Subsection (2)(e) or (f) is subject to a
153 civil penalty of not less than \$2,750 nor more than \$25,000.

154 (c) An employer who is convicted of violating Subsection (3) is subject to a civil
155 penalty of \$10,000.