

Representative Lee B. Perry proposes the following substitute bill:

DRIVER LICENSE RECORD AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lee B. Perry

Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill amends provisions related to driver license records.

Highlighted Provisions:

This bill:

▶ clarifies provisions relating to the disclosure of personal identifying information;

and

▶ makes technical and conforming 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

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.



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

29 (b) The division may ~~[only]~~ disclose personal identifying information in accordance
30 with 18 U.S.C. Chapter 123:

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

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

35 ~~[(c) The division may disclose personal identifying information;]~~

36 ~~[(i) to]~~

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 that term is defined in Section 7-1-103 [for use in
45 accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123.];

46 (iv) to the Tax Commission for the purposes of tax fraud detection and prevention and
47 any other use required by law;

48 (v) to the University of Utah for data collection in relation to genetic and
49 epidemiologic research; or

50 (vi) to a government entity, including any court or law enforcement agency, to fulfill
51 the government entity's functions, or to a private person acting on behalf of a government entity
52 to fulfil the government entity's functions, if the division determines disclosure of the
53 information is in the interest of public safety.

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

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

57 or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

88 (iii) be made under a contract with the employer or a designee of an employer; and
89 (iv) include an indication of whether the driver has had a change reflected in the
90 driver's:

- 91 (A) driving status;
 - 92 (B) license class;
 - 93 (C) medical self-certification status; or
 - 94 (D) medical examiner's certificate under 49 C.F.R. Sec. 391.45.
- 95 (d) The contract under Subsection (3)(b)(iii) or (c)(iii) shall specify:
- 96 (i) the criteria for searching and compiling the driving records being requested;
 - 97 (ii) the frequency of the disclosures;
 - 98 (iii) the format of the disclosures, which may be in bulk electronic form; and
 - 99 (iv) a reasonable charge for the driving record disclosures under this Subsection (3).

100 (4) The division may charge fees:

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

103 (b) for each document prepared under the seal of the division and deliver upon request,
104 a certified copy of any record of the division, and charge a fee set in accordance with Section
105 63J-1-504 for each document authenticated; and

106 (c) established in accordance with the procedures and requirements of Section
107 63J-1-504 for disclosing personal identifying information under Subsection (1)~~(c)~~(b).

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

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

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

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

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

119 electronic format;

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

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

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

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

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

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