

Senator Wayne A. Harper proposes the following substitute bill:

DRIVER LICENSE RECORD AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill requires the Driver License Division to provide notification to each applicant for a driver license or an identification card regarding the disclosure of certain information.

Highlighted Provisions:

This bill:

- ▶ requires the Driver License Division to provide on each application for a driver license or an identification card information regarding the disclosure of personal identifying information;
- ▶ provides means for an individual to opt out of certain disclosures to the University of Utah for data collection in relation to genetic and epidemiologic research;
- ▶ provides means for an individual to remove personal identifying information from the database controlled by the University of Utah;
- ▶ requires reports to the Transportation Interim Committee;
- ▶ requires auditing of the security of the University of Utah database; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **53-3-109**, as last amended by Laws of Utah 2019, Chapter 380



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

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

33 **53-3-109. Records -- Access -- Fees -- Rulemaking.**

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

37 (b) The division may disclose personal identifying information in accordance with 18
38 U.S.C. Chapter 123:

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

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

46 (iii) to a depository institution as that term is defined in Section **7-1-103**;

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

49 (v) subject to Subsection (7), to the University of Utah for data collection in relation to
50 genetic and epidemiologic research; or

51 (vi) (A) to a government entity, including any court or law enforcement agency, to
52 fulfill the government entity's functions[;]; or

53 (B) to a private person acting on behalf of a government entity to fulfill the government
54 entity's functions, if the division determines disclosure of the information is in the interest of
55 public safety.
56

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

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

60 or

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

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

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

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

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

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

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

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

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

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

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

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

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

87 (i) include the licensed driver's name, driver license number, date of birth, and an

88 indication of whether the driver has had a moving traffic violation that is a reportable violation,
89 as defined under Section 53-3-102, during the previous month;

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

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

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

94 (A) driving status;

95 (B) license class;

96 (C) medical self-certification status; or

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

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

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

100 (ii) the frequency of the disclosures;

101 (iii) the format of the disclosures, which may be in bulk electronic form; and

102 (iv) a reasonable charge for the driving record disclosures under this Subsection (3).

103 (4) The division may charge fees:

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

106 (b) for each document prepared under the seal of the division and deliver upon request,
107 a certified copy of any record of the division, and charge a fee set in accordance with Section
108 63J-1-504 for each document authenticated; and

109 (c) established in accordance with the procedures and requirements of Section
110 63J-1-504 for disclosing personal identifying information under Subsection (1)(b).

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

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

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

117 (7) (a) The division shall include on each application for or renewal of a license or
118 identification card under this chapter:

119 (i) the following notice: "The Driver License Division may disclose the information
120 provided on this form to an entity described in Utah Code Ann. Subsection
121 53-3-109(1)(b)(v).";

122 (ii) a reference to the website described in Subsection (7)(b); and

123 (iii) a link to the division website for an online form for the individual to opt out of the
124 disclosure of personal identifying information as described in Subsection (1)(b)(v).

125 (b) On or before July 1, 2020, and in consultation with the division, the University of
126 Utah shall create a website that provides an explanation and description of:

127 (i) what information may be disclosed by the division to the University of Utah under
128 Subsection (1)(b)(v);

129 (ii) the methods and timing of anonymizing the information;

130 (iii) for situations where the information is not anonymized:

131 (A) how the information is used;

132 (B) how the information is secured;

133 (C) how long the information is retained; and

134 (D) who has access to the information;

135 (iv) research and statistical purposes for which the information is used; and

136 (v) other relevant details regarding the information.

137 (c) The website created by the University of Utah described in Subsection (7)(b) shall
138 include the following:

139 (i) a link to the division website for an online form for the individual to opt out of the
140 disclosure of personal identifying information as described in Subsection (1)(b)(v); and

141 (ii) a link to an online form for the individual to affirmatively choose to remove
142 personal identifying information from the database controlled by the University of Utah that
143 was disclosed pursuant to Subsection (1)(b)(v).

144 (d) In the course of business, the division shall provide information regarding the
145 disclosure of personal identifying information, including providing on the division website:

146 (i) a link to the website created under Subsection (7)(b) to provide individuals with
147 information regarding the disclosure of personal identifying information under Subsection
148 (1)(b)(v);

149 (ii) a link to the online form for the individual to opt out of the disclosure of personal

150 identifying information as described in Subsection (1)(b)(v); and

151 (iii) a link to an online form on the University of Utah website for the individual to
152 affirmatively choose to remove personal identifying information from the database controlled
153 by the University of Utah that was disclosed pursuant to Subsection (1)(b)(v).

154 (e) (i) The division may not disclose the personal identifying information under
155 Subsection (1)(b)(v) if an individual opts out of the disclosure as described in Subsection
156 (7)(a)(iii) or (7)(c)(i).

157 (ii) Pursuant to Subsection (7)(c)(ii) or (7)(d)(iii), and except as provided in Subsection
158 (7)(e)(iii), if an individual affirmatively chooses to remove personal identifying information
159 from a database controlled by the University of Utah, the University of Utah may not use and
160 shall immediately destroy all personal identifying information disclosed pursuant to Subsection
161 (1)(b)(v).

162 (iii) The University of Utah is not required to remove an individual's personal
163 identifying information as described in Subsection (7)(e)(ii) from data released to a research
164 study if, before the time of the request for removal described in Subsection (7)(c)(ii) or
165 (7)(d)(iii), the individual had consented to the release.

166 (f) (i) Subject to prioritization of the Audit Subcommittee created in Section [36-12-8](#),
167 the Office of the Legislative Auditor General shall conduct an audit and issue a report on:

168 (A) procedures and safeguards utilized by the University of Utah related to the security
169 of personal identifying information disclosed pursuant to Subsection (1)(b)(v); and

170 (B) potential risks of disclosure or breaches in the security of personal identifying
171 information disclosed pursuant to Subsection (1)(b)(v).

172 (ii) The Office of the Legislative Auditor General shall provide the report described in
173 Subsection (7)(f)(i) to the Transportation Interim Committee before October 31, 2021.

174 (g) (i) The University of Utah shall report to the Transportation Interim Committee
175 before October 31, 2020, regarding the information described in Subsection (7)(b).

176 (ii) The University of Utah shall contract with a third party to conduct information
177 security audits of the data received pursuant to Subsection (1)(b)(v), and, beginning in the year
178 2023, provide a biennial report of the findings of the third party audits to the Transportation
179 Interim Committee.

180 [~~7~~] (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

181 Act, the division may make rules to designate:

182 (a) what information shall be included in a report on the driving record of a person;

183 (b) the form of a report or copy of the report which may include electronic format;

184 (c) the form of a certified copy, as required under Section 53-3-216, which may include

185 electronic format;

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

187 format;

188 (e) the form of written request to the division required under this chapter which may

189 include electronic format;

190 (f) the procedures, requirements, and formats for disclosing personal identifying

191 information under Subsection (1)(b); and

192 (g) the procedures, requirements, and formats necessary for the implementation of

193 Subsection (3).

194 [~~8~~] 9 (a) It is a class B misdemeanor for a person to knowingly or intentionally

195 access, use, disclose, or disseminate a record created or maintained by the division or any

196 information contained in a record created or maintained by the division for a purpose

197 prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

198 (b) A person who discovers or becomes aware of any unauthorized use of records

199 created or maintained by the division shall inform the commissioner and the division director

200 of the unauthorized use.