

Representative Karianne Lisonbee 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; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



26 **53-3-109**, as last amended by Laws of Utah 2019, Chapter 380



27
28 *Be it enacted by the Legislature of the state of Utah:*

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

30 **53-3-109. Records -- Access -- Fees -- Rulemaking.**

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

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

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

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

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

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

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

48 (vi) (A) to a government entity, including any court or law enforcement agency, to
49 fulfill the government entity's functions^[5]; or

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

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

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

56 or

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

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

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

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

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

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

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

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

75 (b) A disclosure under Subsection (3)(a)(i) 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 drivers who, at the time of the disclosure, are covered
80 under a motor vehicle insurance policy of the insurer; and

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

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

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

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

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

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

90 (A) driving status;

91 (B) license class;

92 (C) medical self-certification status; or

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

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

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

96 (ii) the frequency of the disclosures;

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

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

99 (4) The division may charge fees:

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

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

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

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

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

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

113 (7) (a) The division shall include on each application for a license or identification card
114 under this chapter:

115 (i) the following notice: "The Driver License Division may disclose the information
116 provided on this form to an entity described in Utah Code Ann. Subsection
117 53-3-109(1)(b)(v)."; and

118 (ii) a reference to a website created by the division that provides:

119 (A) subject to Subsection (7)(b), a description of what information may be disclosed
 120 under Subsection (1)(b)(v);

121 (B) subject to Subsection (7)(b), an explanation about how the information disclosed
 122 under Subsection (1)(b)(v) is used; and

123 (C) access to a form that an individual may use to opt out of the disclosure described in
 124 Subsection (1)(b)(v), including instructions ~~to~~ requiring the individual to submit the
 124a form in person to
 125 the division.

126 (b) The division:

127 (i) shall consult with the University of Utah to create the description and explanation
 128 described in Subsections (7)(a)(ii)(A) and (B); and

129 (ii) may not disclose personal identifying information under Subsection (1)(b)(v) if an
 130 individual opts out of the disclosure as described in Subsection (7)(a)(ii)(C).

131 ~~[(7)]~~ (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
 132 Act, the division may make rules to designate:

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

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

135 (c) the form of a certified copy, as required under Section 53-3-216, which may include
 136 electronic format;

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

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

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

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

145 ~~[(8)]~~ (9) (a) It is a class B misdemeanor for a person to knowingly or intentionally
 146 access, use, disclose, or disseminate a record created or maintained by the division or any
 147 information contained in a record created or maintained by the division for a purpose
 148 prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

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

150 created or maintained by the division shall inform the commissioner and the division director
151 of the unauthorized use.