

1                                   **UNIFORM COMMERCIAL DRIVER LICENSE**

2   **ACT AMENDMENTS**

3   2010 GENERAL SESSION

4   STATE OF UTAH

5   **Chief Sponsor: Kevin T. Van Tassell**

6   House Sponsor: Julie Fisher

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8                   **LONG TITLE**

9                   **General Description:**

10                   This bill modifies the Uniform Commercial Driver License Act by amending  
11 provisions relating to commercial driver licenses.

12                   **Highlighted Provisions:**

13                   This bill:

14                   ▶ provides that the Driver License Division may, rather than shall, waive the skills  
15 test if it determines that an applicant for a commercial driver license meets certain  
16 requirements;

17                   ▶ provides that a person who holds or is required to hold a CDL is disqualified from  
18 driving a commercial motor vehicle for a period of not less than a year if convicted  
19 of driving a commercial motor vehicle while the person's commercial driver license  
20 is disqualified for violating certain offenses;

21                   ▶ increases the number of days that a driver of a commercial motor vehicle is  
22 disqualified from driving a commercial vehicle if the person is convicted of  
23 violating an out-of-service order;

24                   ▶ increases the minimum civil penalty amounts for a driver of a commercial motor  
25 vehicle who is convicted of violating an out-of-service order;

26                   ▶ provides that an employer may not knowingly allow, permit, or authorize a driver to  
27 drive a commercial motor vehicle during any period when the driver is operating a  
28 commercial motor vehicle or employed by a motor carrier operation that is subject  
29 to an out-of-service order;

30           ▶ increases the maximum fine amount for an employer who is convicted of  
 31 knowingly allowing, permitting, or authorizing a driver to drive a commercial  
 32 vehicle when the driver, the commercial motor vehicle, or a motor carrier operation  
 33 is subject to an out-of-service order; and

34           ▶ makes technical changes.

35 **Monies Appropriated in this Bill:**

36           None

37 **Other Special Clauses:**

38           None

39 **Utah Code Sections Affected:**

40 AMENDS:

41           **53-3-407**, as last amended by Laws of Utah 2009, Chapter 315

42           **53-3-414**, as last amended by Laws of Utah 2007, Chapters 53 and 132

43           **53-3-415**, as last amended by Laws of Utah 2007, Chapter 53



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

46           Section 1. Section **53-3-407** is amended to read:

47           **53-3-407. Qualifications for commercial driver license -- Fee -- Third parties**  
 48 **may administer skills test.**

49           (1) (a) As used in this section, "CDL driver training school" means a business  
 50 enterprise conducted by an individual, association, partnership, or corporation that:

51           (i) educates and trains persons, either practically or theoretically, or both, to drive  
 52 commercial motor vehicles; and

53           (ii) prepares an applicant for an examination under Subsection (2)(a)(ii) or  
 54 (2)(b)(i)(B).

55           (b) A CDL driver training school may charge a consideration or tuition for the services  
 56 provided under Subsection (1)(a).

57           (2) (a) Except as provided in Subsection (2)(b), a CDL may be issued only to a person

58 who:

59 (i) is a resident of this state;

60 (ii) has passed a test of knowledge and skills for driving a commercial motor vehicle,  
61 that complies with minimum standards established by federal regulation in 49 C.F.R., Part  
62 383, Subparts G and H; and

63 (iii) has complied with all requirements of 49 C.F.R., Part 383 and other applicable  
64 state laws and federal regulations.

65 (b) (i) A temporary CDL may be issued to a person who:

66 (A) is enrolled in a CDL driver training school located in Utah;

67 (B) has passed a test of knowledge and skills for driving a commercial motor vehicle,  
68 that complies with minimum standards established by federal regulation in 49 C.F.R. Part 383,  
69 Subparts G and H; and

70 (C) has complied with all requirements of 49 C.F.R. Part 383, Subparts G and H.

71 (ii) A temporary CDL issued under this Subsection (2)(b):

72 (A) is valid for 60 days; and

73 (B) may not be renewed or extended.

74 (iii) Except as provided in this section and Subsections 53-3-204(1)(a)(iv),  
75 53-3-205(8)(a)(i)(E) and (8)(b), and 53-3-410(1)(c), the provisions, requirements, classes,  
76 endorsements, fees, restrictions, and sanctions under this code apply to a temporary CDL  
77 issued under this Subsection (2)(b) in the same way as a commercial driver license issued  
78 under this part.

79 (3) Tests required under this section shall be prescribed and administered by the  
80 division.

81 (4) The division shall authorize a person, an agency of this or another state, an  
82 employer, a private driver training facility or other private institution, or a department, agency,  
83 or entity of local government to administer the skills test required under this section if:

84 (a) the test is the same test as prescribed by the division, and is administered in the  
85 same manner; and

86 (b) the party authorized under this section to administer the test has entered into an  
87 agreement with the state that complies with the requirements of 49 C.F.R., Part 383.75.

88 (5) A person who has an appointment with the division for testing and fails to keep the  
89 appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee  
90 under Section 53-3-105.

91 (6) A person authorized under this section to administer the skills test is not criminally  
92 or civilly liable for the administration of the test unless he administers the test in a grossly  
93 negligent manner.

94 (7) The division [~~shall~~] may waive the skills test required under this section if it  
95 determines that the applicant meets the requirements of 49 C.F.R., Part 383.77.

96 Section 2. Section **53-3-414** is amended to read:

97 **53-3-414. CDL disqualification or suspension -- Grounds and duration --**

98 **Procedure.**

99 (1) A person who holds or is required to hold a CDL is disqualified from driving a  
100 commercial motor vehicle for a period of not less than one year if convicted of a first offense  
101 of:

102 (a) driving a motor vehicle while under the influence of alcohol, drugs, a controlled  
103 substance, or more than one of these;

104 (b) driving a commercial motor vehicle while the concentration of alcohol in the  
105 person's blood, breath, or urine is .04 grams or more;

106 (c) leaving the scene of an accident involving a motor vehicle the person was driving;

107 (d) failing to provide reasonable assistance or identification when involved in an  
108 accident resulting in:

109 (i) death in accordance with Section 41-6a-401.5; or

110 (ii) personal injury in accordance with Section 41-6a-401.3;

111 (e) using a motor vehicle in the commission of a felony;

112 (f) refusal to submit to a test to determine the concentration of alcohol in the person's  
113 blood, breath, or urine;

114 (g) driving a commercial motor vehicle while the person's commercial driver license is  
115 disqualified[, suspended, canceled, withdrawn, barred, denied, or revoked] in accordance with  
116 the provisions of this section for violating an offense described in this section; or

117 (h) operating a commercial motor vehicle in a negligent manner causing the death of  
118 another including the offenses of automobile homicide under Section 76-5-207, manslaughter  
119 under Section 76-5-205, or negligent homicide under Section 76-5-206.

120 (2) If any of the violations under Subsection (1) occur while the driver is transporting  
121 a hazardous material required to be placarded, the driver is disqualified for not less than three  
122 years.

123 (3) (a) Except as provided under Subsection (4), a driver of a motor vehicle who holds  
124 or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if  
125 convicted of or administrative action is taken for two or more of any of the offenses under  
126 Subsection (1), (5), or (14) arising from two or more separate incidents.

127 (b) Subsection (3)(a) applies only to those offenses committed after July 1, 1989.

128 (4) (a) Any driver disqualified for life from driving a commercial motor vehicle under  
129 this section may apply to the division for reinstatement of the driver's CDL if the driver:

130 (i) has both voluntarily enrolled in and successfully completed an appropriate  
131 rehabilitation program that:

132 (A) meets the standards of the division; and

133 (B) complies with 49 C.F.R. Part 383.51;

134 (ii) has served a minimum disqualification period of 10 years; and

135 (iii) has fully met the standards for reinstatement of commercial motor vehicle driving  
136 privileges established by rule of the division.

137 (b) If a reinstated driver is subsequently convicted of another disqualifying offense  
138 under this section, the driver is permanently disqualified for life and is ineligible to again  
139 apply for a reduction of the lifetime disqualification.

140 (5) A driver of a motor vehicle who holds or is required to hold a CDL is disqualified  
141 for life from driving a commercial motor vehicle if the driver uses a motor vehicle in the

142 commission of any felony involving the manufacturing, distributing, or dispensing of a  
143 controlled substance, or possession with intent to manufacture, distribute, or dispense a  
144 controlled substance and is ineligible to apply for a reduction of the lifetime disqualification  
145 under Subsection (4).

146 (6) (a) Subject to Subsection (6)(b), a driver of a commercial motor vehicle who holds  
147 or is required to hold a CDL is disqualified for not less than:

148 (i) 60 days from driving a commercial motor vehicle if the driver is convicted of two  
149 serious traffic violations; and

150 (ii) 120 days if the driver is convicted of three or more serious traffic violations.

151 (b) The disqualifications under Subsection (6)(a) are effective only if the serious  
152 traffic violations:

153 (i) occur within three years of each other;

154 (ii) arise from separate incidents; and

155 (iii) involve the use or operation of a commercial motor vehicle.

156 (c) If a driver of a commercial motor vehicle who holds or is required to hold a CDL is  
157 disqualified from driving a commercial motor vehicle and the division receives notice of a  
158 subsequent conviction for a serious traffic violation that results in an additional  
159 disqualification period under this Subsection (6), the subsequent disqualification period is  
160 effective beginning on the ending date of the current serious traffic violation disqualification  
161 period.

162 (7) (a) A driver of a commercial motor vehicle who is convicted of violating an  
163 out-of-service order while driving a commercial motor vehicle is disqualified from driving a  
164 commercial motor vehicle for a period not less than:

165 (i) [~~90 days but not more than one year~~] 180 days if the driver is convicted of a first  
166 violation;

167 (ii) [~~one year but not more than five years~~] two years if, during any [~~ten-year~~] 10 year  
168 period, the driver is convicted of two violations of out-of-service orders in separate incidents;

169 (iii) three years but not more than five years if, during any [~~ten-year~~] 10 year period,

170 the driver is convicted of three or more violations of out-of-service orders in separate  
171 incidents;

172 (iv) 180 days but not more than two years if the driver is convicted of a first violation  
173 of an out-of-service order while transporting hazardous materials required to be placarded or  
174 while operating a motor vehicle designed to transport 16 or more passengers, including the  
175 driver; or

176 (v) three years but not more than five years if, during any [~~ten-year~~] 10 year period,  
177 the driver is convicted of two or more violations, in separate incidents, of an out-of-service  
178 order while transporting hazardous materials required to be placarded or while operating a  
179 motor vehicle designed to transport 16 or more passengers, including the driver.

180 (b) A driver of a commercial motor vehicle who is convicted of [~~violating~~] a first  
181 violation of an out-of-service order is subject to a civil penalty of not less than [~~\$1,100 nor~~  
182 ~~more than \$2,750~~] \$2,500.

183 (c) A driver of a commercial motor vehicle who is convicted of a second or subsequent  
184 violation of an out-of-service order is subject to a civil penalty of not less than \$5,000.

185 (8) A driver of a commercial motor vehicle who holds or is required to hold a CDL is  
186 disqualified for not less than 60 days if the division determines, in its check of the driver's  
187 driver license status, application, and record prior to issuing a CDL or at any time after the  
188 CDL is issued, that the driver has falsified information required to apply for a CDL in this  
189 state.

190 (9) A driver of a commercial motor vehicle who is convicted of violating a  
191 railroad-highway grade crossing provision under Section 41-6a-1205, while driving a  
192 commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period  
193 not less than:

194 (a) 60 days if the driver is convicted of a first violation;

195 (b) 120 days if, during any three-year period, the driver is convicted of a second  
196 violation in separate incidents; or

197 (c) one year if, during any three-year period, the driver is convicted of three or more

198 violations in separate incidents.

199 (10) (a) The division shall update its records and notify the CDLIS within 10 days of  
200 suspending, revoking, disqualifying, denying, or cancelling a CDL to reflect the action taken.

201 (b) When the division suspends, revokes, cancels, or disqualifies a nonresident CDL,  
202 the division shall notify the licensing authority of the issuing state or other jurisdiction and the  
203 CDLIS within 10 days after the action is taken.

204 (c) When the division suspends, revokes, cancels, or disqualifies a CDL issued by this  
205 state, the division shall notify the CDLIS within 10 days after the action is taken.

206 (11) (a) The division may immediately suspend or disqualify the CDL of a driver  
207 without a hearing or receiving a record of the driver's conviction when the division has reason  
208 to believe that the:

209 (i) CDL was issued by the division through error or fraud;

210 (ii) applicant provided incorrect or incomplete information to the division;

211 (iii) applicant cheated on any part of a CDL examination;

212 (iv) driver no longer meets the fitness standards required to obtain a CDL; or

213 (v) driver poses an imminent hazard.

214 (b) Suspension of a CDL under this Subsection (11) shall be in accordance with  
215 Section 53-3-221.

216 (c) If a hearing is held under Section 53-3-221, the division shall then rescind the  
217 suspension order or cancel the CDL.

218 (12) (a) Subject to Subsection (12)(b), a driver of a motor vehicle who holds or is  
219 required to hold a CDL is disqualified for not less than:

220 (i) 60 days from driving a commercial motor vehicle if the driver is convicted of two  
221 serious traffic violations; and

222 (ii) 120 days if the driver is convicted of three or more serious traffic violations.

223 (b) The disqualifications under Subsection (12)(a) are effective only if the serious  
224 traffic violations:

225 (i) occur within three years of each other;



226           (ii) arise from separate incidents; and  
227           (iii) result in a denial, suspension, cancellation, or revocation of the non-CDL driving  
228 privilege from at least one of the violations.

229           (c) If a driver of a motor vehicle who holds or is required to hold a CDL is disqualified  
230 from driving a commercial motor vehicle and the division receives notice of a subsequent  
231 conviction for a serious traffic violation that results in an additional disqualification period  
232 under this Subsection (12), the subsequent disqualification period is effective beginning on the  
233 ending date of the current serious traffic violation disqualification period.

234           (13) (a) Upon receiving a notice that a person has entered into a plea of guilty or no  
235 contest to a violation of a disqualifying offense described in this section which plea is held in  
236 abeyance pursuant to a plea in abeyance agreement, the division shall disqualify, suspend,  
237 cancel, or revoke the person's CDL for the period required under this section for a conviction  
238 of that disqualifying offense, even if the charge has been subsequently reduced or dismissed in  
239 accordance with the plea in abeyance agreement.

240           (b) The division shall report the plea in abeyance to the CDLIS within 10 days of  
241 taking the action under Subsection (13)(a).

242           (c) A plea which is held in abeyance may not be removed from a person's driving  
243 record for 10 years from the date of the plea in abeyance agreement, even if the charge is:

244           (i) reduced or dismissed in accordance with the plea in abeyance agreement; or  
245           (ii) expunged under Section 77-18-11.

246           (14) The division shall disqualify the CDL of a driver for an arrest of a violation of  
247 Section 41-6a-502 when administrative action is taken against the operator's driving privilege  
248 pursuant to Section 53-3-223 for a period of:

249           (a) one year; or  
250           (b) three years if the violation occurred while transporting hazardous materials.

251           (15) The division may concurrently impose any disqualification periods that arise  
252 under this section while a driver is disqualified by the Secretary of the United States  
253 Department of Transportation under 49 C.F.R. 383.52 for posing an imminent hazard.

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

255 **53-3-415. Limitations on employment of commercial motor vehicle drivers.**

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

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

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

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

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

264 (d) has more than one license; [or]

265 (e) is subject to an out-of-service order[-]; or

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

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

270 (4) (a) An employer who violates Subsection (2)(a), (b), or (c) during the period the  
271 driver has been disqualified under Subsection 53-3-414(9) is subject to a civil penalty of not  
272 more than \$10,000.

273 (b) An employer who is convicted of violating Subsection (2)(e) or (f) is subject to a  
274 civil penalty of not less than \$2,750 nor more than [~~\$11,000~~] \$25,000.

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