

DRIVER LICENSE MODIFICATIONS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John L. Valentine

House Sponsor: Richard A. Greenwood

LONG TITLE

General Description:

This bill modifies the Uniform Driver License Act by amending provisions relating to driver license hearings.

Highlighted Provisions:

This bill:

- ▶ repeals provisions that authorize the Driver License Division to follow the emergency procedures of the Administrative Procedures Act to, immediately and without a hearing, deny, suspend, disqualify, or revoke the license of any person without receiving a record of the person's conviction of crime when the Driver License Division has been notified or has reason to believe the person has committed certain offenses;

- ▶ provides that if the Driver License Division finds that the license of a person should be denied, suspended, disqualified, or revoked, the Driver License Division shall immediately notify the licensee in a manner specified by the Driver License Division and afford the person an opportunity for a hearing in the county where the licensee resides; and

- ▶ makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

30 AMENDS:

31 **53-3-221**, as last amended by Laws of Utah 2013, Chapter 411

32 **53-3-1007**, as last amended by Laws of Utah 2013, Chapter 217

33

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

35 Section 1. Section **53-3-221** is amended to read:

36 **53-3-221. Offenses that may result in denial, suspension, disqualification, or**
37 **revocation of license -- Additional grounds for suspension -- Point system for traffic**
38 **violations -- Notice and hearing -- Reporting of traffic violation procedures.**

39 (1) By following the [~~emergency~~] procedures in Title 63G, Chapter 4, Administrative
40 Procedures Act, the division may [~~immediately~~] deny, suspend, disqualify, or revoke the
41 license of any person [~~without hearing and~~] without receiving a record of the person's
42 conviction of crime when the division has been notified or has reason to believe the person:

43 (a) has committed any offenses for which mandatory suspension or revocation of a
44 license is required upon conviction under Section **53-3-220**;

45 (b) has, by reckless or unlawful driving of a motor vehicle, caused or contributed to an
46 accident resulting in death or injury to any other person, or serious property damage;

47 (c) is incompetent to drive a motor vehicle or is afflicted with mental or physical
48 infirmities or disabilities rendering it unsafe for the person to drive a motor vehicle upon the
49 highways;

50 (d) has committed a serious violation of the motor vehicle laws of this state;

51 (e) has knowingly committed a violation of Section **53-3-229**; or

52 (f) has been convicted of serious offenses against traffic laws governing the movement
53 of motor vehicles with a frequency that indicates a disrespect for traffic laws and a disregard
54 for the safety of other persons on the highways.

55 (2) (a) The division may suspend the license of a person under Subsection (1) when the
56 person has failed to comply with the terms stated on a traffic citation issued in this state, except
57 this Subsection (2) does not apply to highway weight limit violations or violations of law

58 governing the transportation of hazardous materials.

59 (b) This Subsection (2) applies to parking and standing violations only if a court has
60 issued a warrant for the arrest of a person for failure to post bail, appear, or otherwise satisfy
61 the terms of the citation.

62 (c) (i) This Subsection (2) may not be exercised unless notice of the pending
63 suspension of the driving privilege has been sent at least 10 days previously to the person at the
64 address provided to the division.

65 (ii) After clearance by the division, a report authorized by Section 53-3-104 may not
66 contain any evidence of a suspension that occurred as a result of failure to comply with the
67 terms stated on a traffic citation.

68 (3) (a) The division may suspend the license of a person under Subsection (1) when the
69 division has been notified by a court that the person has an outstanding unpaid fine, an
70 outstanding incomplete restitution requirement, or an outstanding warrant levied by order of a
71 court.

72 (b) The suspension remains in effect until the division is notified by the court that the
73 order has been satisfied.

74 (c) After clearance by the division, a report authorized by Section 53-3-104 may not
75 contain any evidence of the suspension.

76 (4) (a) The division shall make rules establishing a point system as provided for in this
77 Subsection (4).

78 (b) (i) The division shall assign a number of points to each type of moving traffic
79 violation as a measure of its seriousness.

80 (ii) The points shall be based upon actual relationships between types of traffic
81 violations and motor vehicle traffic accidents.

82 (iii) Except as provided in Subsection (4)(b)(iv), the division may not assess points
83 against a person's driving record for a conviction of a traffic violation:

84 (A) that occurred in another state; and

85 (B) that was committed on or after July 1, 2011.

86 (iv) The provisions of Subsection (4)(b)(iii) do not apply to:

87 (A) a reckless or impaired driving violation or a speeding violation for exceeding the
88 posted speed limit by 21 or more miles per hour; or

89 (B) an offense committed in another state which, if committed within Utah, would
90 result in the mandatory suspension or revocation of a license upon conviction under Section
91 [53-3-220](#).

92 (c) Every person convicted of a traffic violation shall have assessed against the person's
93 driving record the number of points that the division has assigned to the type of violation of
94 which the person has been convicted, except that the number of points assessed shall be
95 decreased by 10% if on the abstract of the court record of the conviction the court has graded
96 the severity of violation as minimum, and shall be increased by 10% if on the abstract the court
97 has graded the severity of violation as maximum.

98 (d) (i) A separate procedure for assessing points for speeding offenses shall be
99 established by the division based upon the severity of the offense.

100 (ii) The severity of a speeding violation shall be graded as:

101 (A) "minimum" for exceeding the posted speed limit by up to 10 miles per hour;

102 (B) "intermediate" for exceeding the posted speed limit by from 11 to 20 miles per
103 hour; and

104 (C) "maximum" for exceeding the posted speed limit by 21 or more miles per hour.

105 (iii) Consideration shall be made for assessment of no points on minimum speeding
106 violations, except for speeding violations in school zones.

107 (e) (i) Points assessed against a person's driving record shall be deleted for violations
108 occurring before a time limit set by the division.

109 (ii) The time limit may not exceed three years.

110 (iii) The division may also delete points to reward violation-free driving for periods of
111 time set by the division.

112 (f) (i) By publication in two newspapers having general circulation throughout the
113 state, the division shall give notice of the number of points it has assigned to each type of

114 traffic violation, the time limit set by the division for the deletion of points, and the point level
115 at which the division will generally take action to deny or suspend under this section.

116 (ii) The division may not change any of the information provided above regarding
117 points without first giving new notice in the same manner.

118 (5) (a) (i) ~~Upon denying or suspending~~ If the division finds that the license of a
119 person should be denied, suspended, disqualified, or revoked under this section, the division
120 shall immediately notify the licensee in a manner specified by the division and afford ~~him~~ the
121 person an opportunity for a hearing in the county where the licensee resides.

122 (ii) The hearing shall be documented, and the division or its authorized agent may
123 administer oaths, may issue subpoenas for the attendance of witnesses and the production of
124 relevant books and papers, and may require a reexamination of the licensee.

125 (iii) One or more members of the division may conduct the hearing, and any decision
126 made after a hearing before any number of the members of the division is as valid as if made
127 after a hearing before the full membership of the division.

128 (iv) After the hearing the division shall either rescind ~~[its order of denial or suspension,~~
129 ~~extend the denial or suspension of the license,]~~ or affirm its decision to deny, suspend,
130 disqualify, or revoke the license.

131 (b) The denial ~~[or]~~, suspension, disqualification, or revocation of the license remains in
132 effect pending qualifications determined by the division regarding a person:

133 (i) whose license has been denied or suspended following reexamination;

134 (ii) who is incompetent to drive a motor vehicle;

135 (iii) who is afflicted with mental or physical infirmities that might make him dangerous
136 on the highways; or

137 (iv) who may not have the necessary knowledge or skill to drive a motor vehicle safely.

138 (6) (a) Subject to Subsection (6)(d), the division shall suspend a person's license when
139 the division receives notice from the Office of Recovery Services that the Office of Recovery
140 Services has ordered the suspension of the person's license.

141 (b) A suspension under Subsection (6)(a) shall remain in effect until the division

142 receives notice from the Office of Recovery Services that the Office of Recovery Services has
143 rescinded the order of suspension.

144 (c) After an order of suspension is rescinded under Subsection (6)(b), a report
145 authorized by Section 53-3-104 may not contain any evidence of the suspension.

146 (d) (i) If the division suspends a person's license under this Subsection (6), the division
147 shall, upon application, issue a temporary limited driver license to the person if that person
148 needs a driver license for employment, education, or child visitation.

149 (ii) The temporary limited driver license described in this section:

150 (A) shall provide that the person may operate a motor vehicle only for the purpose of
151 driving to or from the person's place of employment, education, or child visitation;

152 (B) shall prohibit the person from driving a motor vehicle for any purpose other than a
153 purpose described in Subsection (6)(d)(ii)(A); and

154 (C) shall expire 90 days after the day on which the temporary limited driver license is
155 issued.

156 (iii) (A) During the period beginning on the day on which a temporary limited driver
157 license is issued under this Subsection (6), and ending on the day that the temporary limited
158 driver license expires, the suspension described in this Subsection (6) only applies if the person
159 who is suspended operates a motor vehicle for a purpose other than employment, education, or
160 child visitation.

161 (B) Upon expiration of a temporary limited driver license described in this Subsection
162 (6)(d):

163 (I) a suspension described in Subsection (6)(a) shall be in full effect until the division
164 receives notice, under Subsection (6)(b), that the order of suspension is rescinded; and

165 (II) a person suspended under Subsection (6)(a) may not drive a motor vehicle for any
166 reason.

167 (iv) The division is not required to issue a limited driver license to a person under this
168 Subsection (6)(d) if there are other legal grounds for the suspension of the person's driver
169 license.

170 (v) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
171 Administrative Rulemaking Act, to implement the provisions of this part.

172 (7) (a) The division may suspend or revoke the license of any resident of this state
173 upon receiving notice of the conviction of that person in another state of an offense committed
174 there that, if committed in this state, would be grounds for the suspension or revocation of a
175 license.

176 (b) The division may, upon receiving a record of the conviction in this state of a
177 nonresident driver of a motor vehicle or motorboat of any offense under the motor vehicle laws
178 of this state, forward a certified copy of the record to the motor vehicle administrator in the
179 state where the person convicted is a resident.

180 (8) (a) The division may suspend or revoke the license of any nonresident to drive a
181 motor vehicle in this state for any cause for which the license of a resident driver may be
182 suspended or revoked.

183 (b) Any nonresident who drives a motor vehicle upon a highway when the person's
184 license has been suspended or revoked by the division is guilty of a class C misdemeanor.

185 (9) (a) The division may not deny or suspend the license of any person for a period of
186 more than one year except:

187 (i) for failure to comply with the terms of a traffic citation under Subsection (2);

188 (ii) upon receipt of a second or subsequent order suspending juvenile driving privileges
189 under Section 53-3-219;

190 (iii) when extending a denial or suspension upon receiving certain records or reports
191 under Subsection 53-3-220(2);

192 (iv) for failure to give and maintain owner's or operator's security under Section
193 41-12a-411;

194 (v) when the division suspends the license under Subsection (6); or

195 (vi) when the division denies the license under Subsection (14).

196 (b) The division may suspend the license of a person under Subsection (2) until the
197 person shows satisfactory evidence of compliance with the terms of the traffic citation.

198 (10) (a) By following the [~~emergency~~] procedures in Title 63G, Chapter 4,
199 Administrative Procedures Act, the division may [~~immediately~~] suspend the license of any
200 person [~~without hearing and~~] without receiving a record of the person's conviction for a crime
201 when the division has reason to believe that the person's license was granted by the division
202 through error or fraud or that the necessary consent for the license has been withdrawn or is
203 terminated.

204 (b) The procedure upon suspension is the same as under Subsection (5), except that
205 after the hearing the division shall either rescind its order of suspension or cancel the license.

206 (11) (a) The division, having good cause to believe that a licensed driver is
207 incompetent or otherwise not qualified to be licensed, may upon notice in a manner specified
208 by the division of at least five days to the licensee require him to submit to an examination.

209 (b) Upon the conclusion of the examination the division may suspend or revoke the
210 person's license, permit him to retain the license, or grant a license subject to a restriction
211 imposed in accordance with Section 53-3-208.

212 (c) Refusal or neglect of the licensee to submit to an examination is grounds for
213 suspension or revocation of the licensee's license.

214 (12) (a) Except as provided in Subsection (12)(b), a report authorized by Section
215 53-3-104 may not contain any evidence of a conviction for speeding on an interstate system in
216 this state if the conviction was for a speed of 10 miles per hour or less, above the posted speed
217 limit and did not result in an accident, unless authorized in a manner specified by the division
218 by the individual whose report is being requested.

219 (b) The provisions of Subsection (12)(a) do not apply for:

220 (i) a CDL license holder; or

221 (ii) a violation that occurred in a commercial motor vehicle.

222 (13) (a) By following the [~~emergency~~] procedures in Title 63G, Chapter 4,
223 Administrative Procedures Act, the division may [~~immediately~~] suspend the license of a person
224 if it has reason to believe that the person is the owner of a motor vehicle for which security is
225 required under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and

226 Operators Act, and has driven the motor vehicle or permitted it to be driven within this state
227 without the security being in effect.

228 (b) The division may [~~immediately~~] suspend a driving privilege card holder's driving
229 privilege card if the division receives notification from the Motor Vehicle Division that:

230 (i) the driving privilege card holder is the registered owner of a vehicle; and

231 (ii) the driving privilege card holder's vehicle registration has been revoked under
232 Subsection 41-1a-110(2)(a)(ii)(A).

233 (c) Section 41-12a-411 regarding the requirement of proof of owner's or operator's
234 security applies to persons whose driving privileges are suspended under this Subsection (13).

235 [~~(d) If the division exercises the right of immediate suspension granted under this
236 Subsection (13), the notice and hearing provisions of Subsection (5) apply.]~~

237 [~~(e) A person whose license suspension has been sustained or whose license has been
238 revoked by the division under this Subsection (13) may file a request for agency action
239 requesting a hearing.]~~

240 (14) The division may deny an individual's license if the person fails to comply with
241 the requirement to downgrade the person's CDL to a class D license under Section 53-3-410.1.

242 (15) The division may deny a person's class A, B, C, or D license if the person fails to
243 comply with the requirement to have a K restriction removed from the person's license.

244 (16) Any suspension or revocation of a person's license under this section also
245 disqualifies any license issued to that person under Part 4, Uniform Commercial Driver License
246 Act.

247 Section 2. Section 53-3-1007 is amended to read:

248 **53-3-1007. Ignition interlock system provider -- Notification to the division upon**
249 **installation or removal of an ignition interlock system -- License suspension or revocation**
250 **for failure to install or remove.**

251 (1) An ignition interlock system provider who installs an ignition interlock system on a
252 person's vehicle shall:

253 (a) provide proof of installation to the person; and

254 (b) electronically notify the division of installation of an ignition interlock system on
255 the person's vehicle.

256 (2) An ignition interlock system provider shall electronically notify the division if a
257 person has removed an ignition interlock system from the person's vehicle.

258 (3) If an individual is an interlock restricted driver, the division shall:

259 (a) suspend the person's driving privilege for the duration of the restriction period as
260 defined in Section 41-6a-518.2;

261 (b) notify the person of the suspension period in place and the requirements for
262 reinstatement of the driving privilege with respect to the ignition interlock restriction
263 suspension; and

264 (c) clear the suspension upon:

265 (i) receipt of payment of the fee or fees specified in Section 53-3-105; and

266 (ii) (A) receipt of electronic notification from an ignition interlock system provider
267 showing proof of the installation of an ignition interlock system on the person's vehicle; or

268 (B) electronically verifying that the person does not have a vehicle registered in the
269 person's name in the state of Utah.

270 (4) By following the [~~emergency~~] procedures in Title 63G, Chapter 4, Administrative
271 Procedures Act, the division shall suspend the license of any person [~~without hearing and~~]
272 without receiving a record of the person's conviction of crime seven days after receiving
273 electronic notification from an ignition interlock system provider that a person has removed an
274 ignition interlock system from the person's vehicle if the person is an interlock restricted driver
275 until:

276 (a) the division:

277 (i) receives payment of the fee or fees specified in Section 53-3-105; and

278 (ii) (A) receives electronic notification from an ignition interlock system provider
279 showing new proof of the installation of an ignition interlock system; or

280 (B) electronically verifies that the person does not have a vehicle registered in the
281 person's name in the state of Utah; or

- 282 (b) the person's interlock restricted period has expired.
- 283 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
284 division shall make rules establishing:
- 285 (a) procedures for certification and regulation of ignition interlock system providers;
- 286 (b) acceptable documentation for proof of the installation of an ignition interlock
287 device;
- 288 (c) procedures for an ignition interlock system provider to electronically notify the
289 division; and
- 290 (d) policies and procedures for the administration of the ignition interlock system
291 program created under this section.