**53-1-101. Title.**

This title is known as the "Public Safety Code."

Enacted by Chapter 234, 1993 General Session

**53-1-102. Definitions.**

(1) As used in this title:

(a) "Commissioner" means the commissioner of public safety appointed under Section 53-1-107.

(b) "Department" means the Department of Public Safety created in Section 53-1-103.

(c) "Law enforcement agency" means an entity of the federal government, a state, or a political subdivision of a state, including a state institution of higher education, that exists primarily to prevent and detect crime and enforce criminal laws, statutes, and ordinances.

(d) "Law enforcement officer" has the same meaning as provided in Section 53-13-103.

(e) "Motor vehicle" means every self-propelled vehicle and every vehicle propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except motorized wheel chairs and vehicles moved solely by human power.

(f) "Peace officer" means any officer certified in accordance with Title 53, Chapter 13, Peace Officer Classifications.

(g) "State institution of higher education" has the same meaning as provided in Section 53B-3-102.

(h) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(2) The definitions provided in Subsection (1) are to be applied throughout this title in addition to definitions that are applicable to specific chapters or parts.

Amended by Chapter 282, 1998 General Session

**53-1-103. Creation of department.**

(1) There is created within state government the Department of Public Safety.

(2) The department has all of the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities specified in this title.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-1-104. Boards, bureaus, councils, divisions, and offices.**

(1) The following are the policymaking boards within the department:

(a) the Driver License Medical Advisory Board, created in Section 53-3-303;

(b) the Concealed Firearm Review Board, created in Section 53-5-703;

(c) the Utah Fire Prevention Board, created in Section 53-7-203;

(d) the Liquified Petroleum Gas Board, created in Section 53-7-304; and

(e) the Private Investigator Hearing and Licensure Board, created in Section

53-9-104.
(2) The following are the councils within the department:
(a) the Peace Officer Standards and Training Council, created in Section 53-6-106; and
(b) the Motor Vehicle Safety Inspection Advisory Council, created in Section 53-8-203.
(3) The following are the divisions within the department:
(a) the Administrative Services Division, created in Section 53-1-203;
(b) the Management Information Services Division, created in Section 53-1-303;
(c) the Division of Emergency Management, created in Section 53-2a-103;
(d) the Driver License Division, created in Section 53-3-103;
(e) the Criminal Investigations and Technical Services Division, created in Section 53-10-103;
(f) the Peace Officers Standards and Training Division, created in Section 53-6-103;
(g) the State Fire Marshal Division, created in Section 53-7-103; and
(h) the Utah Highway Patrol Division, created in Section 53-8-103.
(4) The Office of Executive Protection is created in Section 53-1-112.
(5) The following are the bureaus within the department:
(a) the Bureau of Criminal Identification, created in Section 53-10-201;
(b) the State Bureau of Investigation, created in Section 53-10-301;
(c) the Bureau of Forensic Services, created in Section 53-10-401; and
(d) the Bureau of Communications, created in Section 53-10-501.

Amended by Chapter 295, 2013 General Session

**53-1-105. Rulemaking -- Adjudicative proceedings -- Meetings.**

The commissioner and the department and its boards, councils, divisions, and offices shall comply with the procedures and requirements of:
(1) Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in their rulemaking;
(2) Title 63G, Chapter 4, Administrative Procedures Act, in their adjudicative proceedings; and
(3) Title 52, Chapter 4, Open and Public Meetings Act, in their meetings.

Amended by Chapter 382, 2008 General Session

**53-1-106. Department duties -- Powers.**

(1) In addition to the responsibilities contained in this title, the department shall:
(a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code, including:
(i) setting performance standards for towing companies to be used by the department, as required by Section 41-6a-1406; and
(ii) advising the Department of Transportation regarding the safe design and operation of school buses, as required by Section 41-6a-1304;
(b) make rules to establish and clarify standards pertaining to the curriculum and

teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;

(c) aid in enforcement efforts to combat drug trafficking;

(d) meet with the Department of Technology Services to formulate contracts, establish priorities, and develop funding mechanisms for dispatch and telecommunications operations;

(e) provide assistance to the Crime Victim Reparations Board and the Utah Office for Victims of Crime in conducting research or monitoring victims' programs, as required by Section 63M-7-505;

(f) develop sexual assault exam protocol standards in conjunction with the Utah Hospital Association;

(g) engage in emergency planning activities, including preparation of policy and procedure and rulemaking necessary for implementation of the federal Emergency Planning and Community Right to Know Act of 1986, as required by Section 53-2a-702; and

(h) implement the provisions of Section 53-2a-402, the Emergency Management Assistance Compact.

(2) (a) The department may establish a schedule of fees as required or allowed in this title for services provided by the department.

(b) The fees shall be established in accordance with Section 63J-1-504.

(3) The department may establish or contract for the establishment of an Organ Procurement Donor Registry in accordance with Section 26-28-120.

Amended by Chapter 295, 2013 General Session

**53-1-107. Commissioner of public safety -- Appointment -- Qualifications -- Salary.**

(1) The chief executive officer of the department is the commissioner.

(2) (a) Every fourth year after the year 1989, the governor shall appoint a commissioner with the consent of the Senate.

(b) The commissioner shall serve for a period of four years from July 1 of the year of his appointment.

(3) The commissioner shall:

(a) be an individual of recognized executive and administrative capacity;

(b) be selected solely with regard to his qualifications and fitness to discharge the duties of the commissioner's office;

(c) be of high moral character;

(d) be of good standing in the community in which he lives; and

(e) have been a resident of this state for a period of at least five years immediately prior to his appointment.

(4) The commissioner shall devote full time to the duties of the office.

(5) The governor shall establish the commissioner's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

Amended by Chapter 176, 2002 General Session

**53-1-108. Commissioner's powers and duties.**

(1) In addition to the responsibilities contained in this title, the commissioner shall:

(a) administer and enforce this title and Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(b) appoint deputies, inspectors, examiners, clerical workers, and other employees as required to properly discharge the duties of the department;

(c) make rules:

(i) governing emergency use of signal lights on private vehicles; and

(ii) allowing privately owned vehicles to be designated for part-time emergency use, as provided in Section 41-6a-310;

(d) set standards for safety belt systems, as required by Section 41-6a-1803;

(e) serve as the cochair of the Emergency Management Administration Council, as required by Section 53-2a-105;

(f) designate vehicles as "authorized emergency vehicles," as required by Section 41-6a-102; and

(g) on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender.

(2) The commissioner may:

(a) subject to the approval of the governor, establish division headquarters at various places in the state;

(b) issue to a special agent a certificate of authority to act as a peace officer and revoke that authority for cause, as authorized in Section 56-1-21.5;

(c) create specialized units within the commissioner's office for conducting internal affairs and aircraft operations as necessary to protect the public safety;

(d) cooperate with any recognized agency in the education of the public in safety and crime prevention and participate in public or private partnerships, subject to Subsection (3);

(e) cooperate in applying for and distributing highway safety program funds; and

(f) receive and distribute federal funding to further the objectives of highway safety in compliance with Title 63J, Chapter 5, Federal Funds Procedures Act.

(3) (a) Money may not be expended under Subsection (2)(d) for public safety education unless it is specifically appropriated by the Legislature for that purpose.

(b) Any recognized agency receiving state money for public safety shall file with the auditor of the state an itemized statement of all its receipts and expenditures.

Amended by Chapter 295, 2013 General Session

**53-1-109. Security for capitol complex -- Traffic and parking rules enforcement for division -- Security personnel as law enforcement officers.**

(1) As used in this section, "capitol hill facilities" and "capitol hill grounds" have the same meaning as provided in Section 63C-9-102.

(2) (a) The commissioner, under the direction of the State Capitol Preservation Board, shall:

(i) provide for the security of capitol hill facilities and capitol hill grounds; and

(ii) enforce traffic provisions under Title 41, Chapter 6a, Traffic Code, and parking rules, as adopted by the State Capitol Preservation Board, for capitol hill facilities and capitol hill grounds.

(b) The commissioner, in cooperation with the director of the Division of Facilities Construction and Management shall provide for the security of all grounds and buildings under the jurisdiction of the Division of Facilities Construction and Management.

(3) Security personnel required in Subsection (2) shall be law enforcement officers as defined in Section 53-13-103.

(4) Security personnel who were actively employed and had five or more years of active service with Protective Services within the Utah Highway Patrol Division as special function officers, as defined in Section 53-13-105, on June 29, 1996, shall become law enforcement officers:

(a) without a requirement of any additional training or examinations, if they have completed the entire law enforcement officer training of the Peace Officers Standards and Training Division; or

(b) upon completing only the academic portion of the law enforcement officer training of the Peace Officers Standards and Training Division.

(5) An officer in a supervisory position with Protective Services within the Utah Highway Patrol Division shall be allowed to transfer the job title that the officer held on April 28, 1996, into a comparable supervisory position of employment as a peace officer for as long as the officer remains with Protective Services within the Utah Highway Patrol Division.

Amended by Chapter 2, 2005 General Session

**53-1-110. Compilation of highway, traffic, and driver licensing laws -- Printing and distribution -- Fees.**

(1) (a) The commissioner shall compile an edition of the general highway, traffic, and driver licensing laws of the state as soon as practicable after each regular session of the Legislature.

(b) The edition shall include laws enacted or amended by the most recent session of the Legislature.

(2) (a) The Division of Finance shall print a sufficient quantity of the compiled highway, traffic, and driver licensing laws to distribute copies to all state, county, and local enforcement agencies, courts, legislators, and other agencies as necessary.

(b) A fee may be assessed for each copy of the compilation issued by the Division of Finance. The fee shall be established by the Division of Finance in accordance with Section 63J-1-504.

Amended by Chapter 183, 2009 General Session

**53-1-111. Crime prevention month -- Department of Public Safety to coordinate.**

(1) The month of October is designated as "Crime Prevention Month."

(2) The department shall coordinate all activities, special programs, and

promotional information to heighten public awareness and involvement in the prevention of crime in each community.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-1-112. Office of Executive Protection -- Creation.**

There is created within the department the Office of Executive Protection.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-1-113. Office of Executive Protection -- Personnel.**

(1) The commissioner shall select personnel for the Office of Executive Protection primarily from the ranks of the Highway Patrol without competitive examination.

(2) Selection of personnel from other than these ranks may be made at the commissioner's discretion, provided the persons selected are peace officers.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-1-114. Office of Executive Protection -- Security and protection for governor and family -- Protection for other officials.**

(1) The Office of Executive Protection shall provide all necessary security and protection for the governor and the governor's immediate family.

(2) (a) Subject to the direction of the commissioner, the Office of Executive Protection may provide protection to other public officials.

(b) That protection may not extend for more than 15 days without review and approval by majority vote of the president of the Senate, the speaker of the House, and the commissioner.

(c) Review and approval by the same majority vote shall be required at the end of each 15-day period.

Amended by Chapter 146, 2000 General Session

**53-1-115. Office of Executive Protection -- Closure of property to protect governor -- Violation of order of closure.**

(1) As used in this section:

(a) "Office" includes the governor's official office and any other location not generally open to the public in which the governor is conducting the business of the state.

(b) "Parking space" includes any space occupied or to be occupied by the governor's vehicle when parked, regardless of whether it is the regular parking space of the governor's vehicle.

(c) "Premises" includes:

(i) the governor's official residence, private residence, and any temporary residence owned by the governor or the governor's family; and

(ii) any temporary lodging or residence where the governor is staying or intends

to stay, regardless of whether the stay is for official or other purposes.

(d) "Vehicle" includes an automobile, airplane, or other mode of conveyance in which the governor is traveling or intends to travel.

(2) A member of the Office of Executive Protection may order the closure of or restriction of access to the governor's premises or office when in the member's discretion that action is necessary to insure the safety of the governor, the governor's immediate family, or other persons within the premises or office.

(3) A member of the Office of Executive Protection may order restriction of access to the governor's vehicle by ordering closure of or restriction of access to areas surrounding the vehicle, the vehicle's parking space, or the vehicle's routes of ingress or egress, when in the member's discretion that action is necessary to ensure the safety of the governor, the governor's immediate family, other persons within the vehicle, or the safe passage of persons in or out of or to or from the vehicle.

(4) A member of the Office of Executive Protection may order closure or restriction of access to any public property when in the member's discretion that action is necessary in the discharge of the duty to protect the governor, the governor's immediate family, or other persons for whom protection may be provided under Section 53-1-114.

(5) (a) A member of the Office of Executive Protection may order closure of or restriction of access to privately owned property to the same extent and for the same purposes as for publicly owned property with the consent of the owner, tenant, or occupant of the private property.

(b) The owner, tenant, or occupant may:

(i) expressly ratify consent that was previously implicit; and

(ii) withdraw consent by informing a member of the Office of Executive Protection.

(6) An order of closure or restriction remains in effect for up to three consecutive days and may be extended beyond three days:

(a) with the commissioner's approval; or

(b) without the commissioner's approval if immediate circumstances warrant the extension.

(7) (a) An order closing or restricting access to property shall be posted by placing a copy of it at the primary entrance to the property.

(b) An order restricting access to a vehicle shall be posted by placing a copy of it in the area to be closed or restricted, including the area surrounding the vehicle, the vehicle's parking space, or the vehicle's routes of ingress or egress.

(c) An order is not invalidated for failure to comply with the procedures of Subsection (7)(a) or (7)(b) if notice to the public of the order is otherwise sufficient and reasonable under the circumstances.

(8) An order shall specify the extent of the closure or restriction.

(9) A person who intentionally or knowingly enters or remains within public property in violation of an order of closure or restricted access is guilty of a class B misdemeanor.

(10) This section does not restrict or limit a member of the Office of Executive Protection in exercising any other power available to the member as an officer of the law to provide for the security of the governor or the safety of the public.

Amended by Chapter 146, 2000 General Session

**53-1-116. Violations.**

A violation of this title, except for a violation under Chapter 3, Part 2, Driver Licensing Act, is a class C misdemeanor, unless otherwise provided.

Amended by Chapter 51, 1997 General Session

**53-1-117. Alcohol or drug enforcement funding -- Rulemaking -- Legislative findings.**

(1) From money appropriated by the Legislature and any other funds made available for the purposes described under this section, the department shall assist the law enforcement agencies of the state and its political subdivisions in the enforcement of alcohol or drug-related offenses.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules establishing criteria and procedures for granting money under this section to law enforcement agencies for:

(a) providing equipment, including drug and alcohol testing equipment;

(b) funding the training and overtime of peace officers; and

(c) managing driving under the influence related abandoned vehicles.

(3) The Legislature finds that the money is for a general and statewide public purpose.

Amended by Chapter 342, 2011 General Session

**53-1-118. Public Safety Honoring Heroes Restricted Account -- Creation -- Funding -- Distribution of funds by the commissioner.**

(1) There is created in the General Fund a restricted account known as the Public Safety Honoring Heroes Restricted Account.

(2) The account shall be funded by:

(a) contributions deposited into the Public Safety Honoring Heroes Restricted Account in accordance with Section 41-1a-422;

(b) private contributions; and

(c) donations or grants from public or private entities.

(3) The Legislature shall appropriate money in the account to the commissioner.

(4) The commissioner shall distribute the funds to one or more charitable organizations that:

(a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code; and

(b) have as a primary part of their mission to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees.

(5) The commissioner may only consider proposals that are:

(a) proposed by a charitable organization under Subsection (4); and

(b) designed to support families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees.

(6) (a) An organization described in Subsection (4) may apply to the commissioner to receive a distribution in accordance with Subsection (4).

(b) An organization that receives a distribution from the commissioner in accordance with Subsection (4) shall expend the distribution only to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules providing procedures for an organization to apply to receive funds under this section.

Amended by Chapter 303, 2011 General Session

**53-1-119. Tracking effects of abuse of alcoholic products.**

(1) There is created a committee within the department known as the "Alcohol Abuse Tracking Committee" that consists of:

(a) the commissioner, or the commissioner's designee;

(b) the executive director of the Department of Health, or the executive director's designee;

(c) the executive director of the Department of Human Services, or the executive director's designee;

(d) the director of the Department of Alcoholic Beverage Control, or the director's designee;

(e) the executive director of the Department of Workforce Services, or the executive director's designee;

(f) the chair of the Utah Substance Abuse Advisory Council, or the chair's designee;

(g) the state court administrator or the state court administrator's designee; and

(h) the executive director of the Department of Technology Services, or the executive director's designee.

(2) The commissioner, or the commissioner's designee, shall chair the committee.

(3) (a) Four members of the committee constitute a quorum.

(b) A vote of the majority of the committee members present when a quorum is present is an action of the committee.

(4) The committee shall meet at the call of the chair, except that the chair shall call a meeting at least twice a year:

(a) with one meeting held before April 1 of each year to develop the report required under Subsection (7); and

(b) with one meeting to review and finalize the report before it is issued July 1.

(5) The committee may adopt additional procedures or requirements for:

(a) voting, when there is a tie of the committee members;

(b) how meetings are to be called; and

(c) the frequency of meetings.

(6) The committee shall establish a process to collect for each calendar year the following information:

(a) the number of individuals statewide who are convicted of, plead guilty to,

plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to underage drinking of alcohol;

(b) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to driving under the influence of alcohol;

(c) the number of violations statewide of Title 32B, Alcoholic Beverage Control Act, related to over-serving or over-consumption of an alcoholic product;

(d) the cost of social services provided by the state related to abuse of alcohol, including services provided by the Division of Child and Family Services within the Department of Human Services;

(e) where the alcoholic products are obtained that results in the violations or costs described in Subsections (6)(a) through (d); and

(f) any information the committee determines can be collected and relates to the abuse of alcoholic products.

(7) Beginning July 1, 2014, the committee shall report the information collected under Subsection (6) annually to the governor and the Legislature by no later than the July 1 immediately following the calendar year for which the information is collected.

Amended by Chapter 163, 2014 General Session

**53-1-201. Short title.**

This part is known as "Administrative Services."

Enacted by Chapter 234, 1993 General Session

**53-1-202. Definitions.**

As used in this part:

(1) "Director" means the division director appointed under Section 53-1-203.

(2) "Division" means the Administrative Services Division created in Section 53-1-203.

Enacted by Chapter 234, 1993 General Session

**53-1-203. Creation of Administrative Services Division -- Appointment of director -- Qualifications -- Term -- Compensation.**

(1) There is created within the department the Administrative Services Division.

(2) The division shall be administered by a director appointed by the commissioner with the approval of the governor.

(3) The director is the executive and administrative head of the division and shall be experienced in administration and possess additional qualifications as determined by the commissioner and as provided by law.

(4) The director acts under the supervision and control of the commissioner and may be removed from his position at the will of the commissioner.

(5) The director shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

Enacted by Chapter 234, 1993 General Session

**53-1-204. Division duties.**

The division shall:

(1) provide administrative and staff support to the commissioner;

(2) ensure that all departmental administrative processes are in compliance with state law, rules, and procedures;

(3) administer all human resource related matters throughout the department;

(4) make deposits, pay all claims and obligations of the department, and conduct all treasury transactions;

(5) prepare the department budget, review department expenditures, prepare financial reports, and offer general assistance with financial matters to the department;

(6) coordinate and review department purchases and monitor department purchasing practices to ensure compliance with state procurement rules;

(7) coordinate the purchase, operation, maintenance, records, and final disposal of the department's vehicle fleet;

(8) make capital facility plans for the department, maintain a capital equipment inventory system, coordinate risk management records, and organize waste paper recycling; and

(9) make rules for the department authorized by this title.

Enacted by Chapter 234, 1993 General Session

**53-1-301. Short title.**

This part is known as "Management Information Services."

Enacted by Chapter 234, 1993 General Session

**53-1-302. Definitions.**

As used in this part:

(1) "Director" means the division director appointed under Section 53-1-303.

(2) "Division" means the Management Information Services Division created in Section 53-1-303.

Enacted by Chapter 234, 1993 General Session

**53-1-303. Creation of Management Information Services Division -- Appointment of director -- Qualifications -- Term -- Compensation.**

(1) There is created within the department the Management Information Services Division.

(2) The division shall be administered by a director appointed by the commissioner with the approval of the governor.

(3) The director is the executive and administrative head of the division and shall be experienced in administration and possess additional qualifications as determined by the commissioner and as provided by law.

(4) The director acts under the supervision and control of the commissioner and

may be removed from his position at the will of the commissioner.

(5) The director shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

Enacted by Chapter 234, 1993 General Session

**53-1-304. Division duties.**

The division shall:

(1) provide technical support for the department's various computer systems, including computer software, hardware, and networking support;

(2) provide access to the National Crime Information Center, National Law Enforcement Telecommunication System, which provides electronic mail messaging capabilities to law enforcement agencies throughout the nation, and to National Commercial Driver License Information;

(3) create information systems for public safety information;

(4) provide programming support as required by the department;

(5) design systems and programs to maximize the efficiency of the department;

(6) provide law enforcement officers and criminal justice agencies access to public safety information that will assist in protecting the public; and

(7) other duties as assigned by the commissioner.

Enacted by Chapter 234, 1993 General Session

**53-2a-101. Title.**

This part is known as the "Emergency Management Act."

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-102. Definitions.**

As used in this chapter:

(1) "Attack" means a nuclear, cyber, conventional, biological, act of terrorism, or chemical warfare action against the United States of America or this state.

(2) "Commissioner" means the commissioner of the Department of Public Safety or the commissioner's designee.

(3) "Director" means the division director appointed under Section 53-2a-103 or the director's designee.

(4) "Disaster" means an event that:

(a) causes, or threatens to cause, loss of life, human suffering, public or private property damage, or economic or social disruption resulting from attack, internal disturbance, natural phenomena, or technological hazard; and

(b) requires resources that are beyond the scope of local agencies in routine responses to emergencies and accidents and may be of a magnitude or involve unusual circumstances that require response by government, not-for-profit, or private entities.

(5) "Division" means the Division of Emergency Management created in Section 53-2a-103.

(6) "Energy" includes the energy resources defined in this chapter.

(7) "Expenses" means actual labor costs of government and volunteer personnel, and materials.

(8) "Hazardous materials emergency" means a sudden and unexpected release of any substance that because of its quantity, concentration, or physical, chemical, or infectious characteristics presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.

(9) "Internal disturbance" means a riot, prison break, terrorism, or strike.

(10) "Natural phenomena" means any earthquake, tornado, storm, flood, landslide, avalanche, forest or range fire, drought, or epidemic.

(11) "State of emergency" means a condition in any part of this state that requires state government emergency assistance to supplement the local efforts of the affected political subdivision to save lives and to protect property, public health, welfare, or safety in the event of a disaster, or to avoid or reduce the threat of a disaster.

(12) "Technological hazard" means any hazardous materials accident, mine accident, train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

(13) "Terrorism" means activities or the threat of activities that:

(a) involve acts dangerous to human life;

(b) are a violation of the criminal laws of the United States or of this state; and

(c) to a reasonable person, would appear to be intended to:

(i) intimidate or coerce a civilian population;

(ii) influence the policy of a government by intimidation or coercion; or

(iii) affect the conduct of a government by mass destruction, assassination, or kidnapping.

(14) "Urban search and rescue" means the location, extrication, and initial medical stabilization of victims trapped in a confined space as the result of a structural collapse, transportation accident, mining accident, or collapsed trench.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-103. Division of Emergency Management -- Creation -- Director -- Appointment -- Term -- Compensation.**

(1) There is created within the Department of Public Safety the Division of Emergency Management.

(2) The division shall be administered by a director appointed by the commissioner with the approval of the governor.

(3) The director is the executive and administrative head of the division and shall be experienced in administration and possess additional qualifications as determined by the commissioner and as provided by law.

(4) The director acts under the supervision and control of the commissioner and may be removed from the position at the will of the commissioner.

(5) The director shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-104. Division duties -- Powers.**

(1) The division shall:

(a) respond to the policies of the governor and the Legislature;

(b) perform functions relating to emergency management as directed by the governor or by the commissioner, including:

(i) coordinating with state agencies and local governments the use of personnel and other resources of these governmental entities as agents of the state during an interstate disaster in accordance with the Emergency Management Assistance Compact described in Section 53-2a-402;

(ii) coordinating the requesting, activating, and allocating of state resources during an intrastate disaster or a local state of emergency;

(iii) receiving and disbursing federal resources provided to the state in a declared disaster;

(iv) appointing a state coordinating officer who is the governor's representative and who shall work with a federal coordinating officer during a federally declared disaster; and

(v) appointing a state recovery officer who is the governor's representative and who shall work with a federal recovery officer during a federally declared disaster;

(c) prepare, implement, and maintain programs and plans to provide for:

(i) prevention and minimization of injury and damage caused by disasters;

(ii) prompt and effective response to and recovery from disasters;

(iii) identification of areas particularly vulnerable to disasters;

(iv) coordination of hazard mitigation and other preventive and preparedness measures designed to eliminate or reduce disasters;

(v) assistance to local officials, state agencies, and the business and public sectors, in developing emergency action plans;

(vi) coordination of federal, state, and local emergency activities;

(vii) coordination of emergency operations plans with emergency plans of the federal government;

(viii) coordination of urban search and rescue activities;

(ix) coordination of rapid and efficient communications in times of emergency; and

(x) other measures necessary, incidental, or appropriate to this part;

(d) coordinate with local officials, state agencies, and the business and public sectors in developing, implementing, and maintaining a state energy emergency plan in accordance with Section 53-2a-902; and

(e) administer Part 6, Disaster Recovery Funding Act, in accordance with that part.

(2) (a) The Department of Public Safety shall designate state geographical regions and allow the political subdivisions within each region to:

(i) coordinate planning with other political subdivisions, tribal governments, and as appropriate, other entities within that region and with state agencies as appropriate, or as designated by the division;

(ii) coordinate grant management and resource purchases; and

(iii) organize joint emergency response training and exercises.

(b) The political subdivisions within a region designated in Subsection (2)(a) may

not establish the region as a new government entity in the emergency disaster declaration process under Section 53-2a-208.

(3) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish protocol for prevention, mitigation, preparedness, response, recovery, and the activities described in Subsection (2);

(b) coordinate federal, state, and local resources in a declared disaster or local emergency; and

(c) implement provisions of the Emergency Management Assistance Compact as provided in Section 53-2a-402 and Title 53, Chapter 2a, Part 3, Statewide Mutual Aid Act.

(4) The division may consult with the Legislative Management Committee, the Judicial Council, and legislative and judicial staff offices to assist the division in preparing emergency succession plans and procedures under Title 53, Chapter 2a, Part 8, Emergency Interim Succession Act.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-105. Emergency Management Administration Council created -- Function -- Composition -- Expenses.**

(1) There is created the Emergency Management Administration Council to provide advice and coordination for state and local government agencies on government emergency prevention, mitigation, preparedness, response, and recovery actions and activities.

(2) The council shall meet at the call of the chair, but at least semiannually.

(3) The council shall be made up of the:

(a) lieutenant governor, or the lieutenant governor's designee;

(b) attorney general, or the attorney general's designee;

(c) heads of the following state agencies, or their designees:

(i) Department of Public Safety;

(ii) Division of Emergency Management;

(iii) Department of Transportation;

(iv) Department of Health;

(v) Department of Environmental Quality;

(vi) Department of Community and Economic Development; and

(vii) Department of Natural Resources;

(d) adjutant general of the National Guard or the adjutant general's designee;

(e) commissioner of agriculture and food or the commissioner's designee;

(f) two representatives with expertise in emergency management appointed by the Utah League of Cities and Towns;

(g) two representatives with expertise in emergency management appointed by the Utah Association of Counties;

(h) up to four additional members with expertise in emergency management, critical infrastructure, or key resources as these terms are defined under 6 U.S. Code Section 101 appointed from the private sector, by the chair of the council; and

(i) two representatives appointed by the Utah Emergency Management

Association.

(4) The commissioner and the lieutenant governor serve as cochairs of the council.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The council shall coordinate with existing emergency management related entities including:

(a) the Emergency Management Regional Committees established by the Department of Public Safety;

(b) the Statewide Mutual Aid Committee established under Section 53-2a-303; and

(c) the Hazardous Chemical Emergency Response Commission designated under Section 53-2a-703.

(7) The council may establish other committees and task forces as determined necessary by the council to carry out the duties of the council.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-201. Title.**

This part is known as the "Disaster Response and Recovery Act."

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-202. Legislative findings -- Purpose -- Short title.**

(1) The Legislature finds that existing and increasing threats of the occurrence of destructive disasters resulting from attack, internal disturbance, natural phenomenon or technological hazard could greatly affect the health, safety, and welfare of the people of this state, and it is therefore necessary to grant to the governor of this state and its political subdivisions special emergency disaster authority.

(2) It is the purpose of this act to assist the governor of this state and its political subdivisions to effectively provide emergency disaster response and recovery assistance in order to protect the lives and property of the people. This part is known as the "Disaster Response and Recovery Act."

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-203. Definitions.**

(1) "Chief executive officer" means:

(a) for a municipality:

(i) the mayor for a municipality operating under all forms of municipal government except the council-manager form of government; or

(ii) the city manager for a municipality operating under the council-manager form

of government;

(b) for a county:

(i) the chair of the county commission for a county operating under the county commission or expanded county commission form of government;

(ii) the county executive officer for a county operating under the county-executive council form of government; or

(iii) the county manager for a county operating under the council-manager form of government; or

(c) for a special service district:

(i) the chief executive officer of the county or municipality that created the special service district if authority has not been delegated to an administrative control board as provided in Section 17D-1-301;

(ii) the chair of the administrative control board to which authority has been delegated as provided in Section 17D-1-301; or

(iii) the general manager or other officer or employee to whom authority has been delegated by the governing body of the special service district as provided in Section 17D-1-301; or

(d) for a local district:

(i) the chair of the board of trustees selected as provided in Section 17B-1-309; or

(ii) the general manager or other officer or employee to whom authority has been delegated by the board of trustees.

(2) "Local emergency" means a condition in any municipality or county of the state which requires that emergency assistance be provided by the affected municipality or county or another political subdivision to save lives and protect property within its jurisdiction in response to a disaster, or to avoid or reduce the threat of a disaster.

(3) "Political subdivision" means a municipality, county, special service district, or local district.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-204. Authority of governor -- Federal assistance -- Fraud or willful misstatement in application for financial assistance -- Penalty.**

(1) In addition to any other authorities conferred upon the governor, if the governor issues an executive order declaring a state of emergency, the governor may:

(a) utilize all available resources of state government as reasonably necessary to cope with a state of emergency;

(b) employ measures and give direction to state and local officers and agencies that are reasonable and necessary for the purpose of securing compliance with the provisions of this part and with orders, rules, and regulations made pursuant to this act;

(c) recommend and advise the evacuation of all or part of the population from any stricken or threatened area within the state if necessary for the preservation of life;

(d) recommend routes, modes of transportation, and destination in connection with evacuation;

(e) in connection with evacuation, suspend or limit the sale, dispensing, or

transportation of alcoholic beverages, explosives, and combustibles, not to include the lawful bearing of arms;

(f) control ingress and egress to and from a disaster area, the movement of persons within the area, and recommend the occupancy or evacuation of premises in a disaster area;

(g) clear or remove from publicly or privately owned land or water debris or wreckage that is an immediate threat to public health, public safety, or private property, including allowing an employee of a state department or agency designated by the governor to enter upon private land or waters and perform any tasks necessary for the removal or clearance operation if the political subdivision, corporation, organization, or individual that is affected by the removal of the debris or wreckage:

(i) presents an unconditional authorization for removal of the debris or wreckage from private property; and

(ii) agrees to indemnify the state against any claim arising from the removal of the debris or wreckage;

(h) enter into agreement with any agency of the United States:

(i) for temporary housing units to be occupied by victims of a state of emergency or persons who assist victims of a state of emergency; and

(ii) to make the housing units described in Subsection (1)(h)(i) available to a political subdivision of this state;

(i) assist any political subdivision of this state to acquire sites and utilities necessary for temporary housing units described in Subsection (1)(h)(i) by passing through any funds made available to the governor by an agency of the United States for this purpose;

(j) subject to Sections 53-2a-209 and 53-2a-214, temporarily suspend or modify by executive order, during the state of emergency, any public health, safety, zoning, transportation, or other requirement of a statute or administrative rule within this state if such action is essential to provide temporary housing described in Subsection (1)(h)(i);

(k) upon determination that a political subdivision of the state will suffer a substantial loss of tax and other revenues because of a state of emergency and the political subdivision so affected has demonstrated a need for financial assistance to perform its governmental functions, in accordance with Utah Constitution, Article XIV, Sections 3 and 4, and Section 10-8-6:

(i) apply to the federal government for a loan on behalf of the political subdivision if the amount of the loan that the governor applies for does not exceed 25% of the annual operating budget of the political subdivision for the fiscal year in which the state of emergency occurs; and

(ii) receive and disburse the amount of the loan to the political subdivision;

(l) accept funds from the federal government and make grants to any political subdivision for the purpose of removing debris or wreckage from publicly owned land or water;

(m) upon determination that financial assistance is essential to meet expenses related to a state of emergency of individuals or families adversely affected by the state of emergency that cannot be sufficiently met from other means of assistance, apply for, accept, and expend a grant by the federal government to fund the financial assistance, subject to the terms and conditions imposed upon the grant;

(n) recommend to the Legislature other actions the governor considers to be necessary to address a state of emergency; or

(o) authorize the use of all water sources as necessary for fire suppression.

(2) A person who fraudulently or willfully makes a misstatement of fact in connection with an application for financial assistance under this section shall, upon conviction of each offense, be subject to a fine of not more than $5,000 or imprisonment for not more than one year, or both.

Renumbered and Amended by Chapter 295, 2013 General Session
Amended by Chapter 304, 2013 General Session

**53-2a-205. Authority of chief executive officers of political subdivisions -- Ordering of evacuations.**

(1) (a) In order to protect life and property when a state of emergency or local emergency has been declared, the chief executive officer of each political subdivision of the state is authorized to:

(i) carry out, in the chief executive officer's jurisdiction, the measures as may be ordered by the governor under this part; and

(ii) take any additional measures the chief executive officer may consider necessary, subject to the limitations and provisions of this part.

(b) The chief executive officer may not take an action that is inconsistent with any order, rule, regulation, or action of the governor.

(2) When a state of emergency or local emergency is declared, the authority of the chief executive officer includes:

(a) utilizing all available resources of the political subdivision as reasonably necessary to manage a state of emergency or local emergency;

(b) employing measures and giving direction to local officers and agencies which are reasonable and necessary for the purpose of securing compliance with the provisions of this part and with orders, rules, and regulations made under this part;

(c) if necessary for the preservation of life, issuing an order for the evacuation of all or part of the population from any stricken or threatened area within the political subdivision;

(d) recommending routes, modes of transportation, and destinations in relation to an evacuation;

(e) suspending or limiting the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles in relation to an evacuation, except that the chief executive officer may not restrict the lawful bearing of arms;

(f) controlling ingress and egress to and from a disaster area, controlling the movement of persons within a disaster area, and ordering the occupancy or evacuation of premises in a disaster area;

(g) clearing or removing debris or wreckage that may threaten public health, public safety, or private property from publicly or privately owned land or waters, except that where there is no immediate threat to public health or safety, the chief executive officer shall not exercise this authority in relation to privately owned land or waters unless:

(i) the owner authorizes the employees of designated local agencies to enter

upon the private land or waters to perform any tasks necessary for the removal or clearance; and

(ii) the owner provides an unconditional authorization for removal of the debris or wreckage and agrees to indemnify the local and state government against any claim arising from the removal; and

(h) invoking the provisions of any mutual aid agreement entered into by the political subdivision.

(3) (a) If the chief executive is unavailable to issue an order for evacuation under Subsection (2)(c), the chief law enforcement officer having jurisdiction for the area may issue an urgent order for evacuation, for a period not to exceed 36 hours, if the order is necessary for the preservation of life.

(b) The chief executive officer may ratify, modify, or revoke the chief law enforcement officer's order.

(4) Notice of an order or the ratification, modification, or revocation of an order issued under this section shall be:

(a) given to the persons within the jurisdiction by the most effective and reasonable means available; and

(b) filed in accordance with Subsection 53-2a-209(1).

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-206. State of emergency -- Declaration -- Termination -- Commander in chief of military forces.**

(1) A state of emergency may be declared by executive order of the governor if the governor finds a disaster has occurred or the occurrence or threat of a disaster is imminent in any area of the state in which state government assistance is required to supplement the response and recovery efforts of the affected political subdivision or political subdivisions.

(2) A state of emergency shall continue until the governor finds the threat or danger has passed or the disaster reduced to the extent that emergency conditions no longer exist.

(3) A state of emergency may not continue for longer than 30 days unless extended by joint resolution of the Legislature, which may also terminate a state of emergency by joint resolution at any time.

(4) The governor shall issue an executive order ending the state of emergency on receipt of the Legislature's resolution.

(5) An executive order described in this section shall state:

(a) the nature of the state of emergency;

(b) the area or areas threatened; and

(c) the conditions creating such an emergency or those conditions allowing termination of the state of emergency.

(6) During the continuance of any state of emergency the governor is commander in chief of the military forces of the state in accordance with Utah Constitution Article VII, Section 4, and Title 39, Chapter 1, State Militia.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-207. Expenditures authorized by "state of emergency" declaration.**

(1) (a) The director may use funds authorized under this part to provide:

(i) transportation to and from the disaster scene;

(ii) accommodations at the disaster scene for prolonged incidents; and

(iii) emergency purchase of response equipment and supplies in direct support of a disaster.

(b) The commissioner may authorize the use of funds accrued under Title 53, Chapter 2a, Part 10, Energy Emergency Powers of the Governor Act, only if the governor declares a state of emergency as provided under this part.

(2) These funds may not be allocated to a political subdivision unless the political subdivision has demonstrated that it is beyond its capability to respond to the disaster and that no other resources are available in sufficient amount to meet the disaster.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-208. Local emergency -- Declarations.**

(1) (a) A local emergency may be declared by proclamation of the chief executive officer of a municipality or county.

(b) A local emergency shall not be continued or renewed for a period in excess of 30 days except by or with the consent of the governing body of the municipality or county.

(c) Any order or proclamation declaring, continuing, or terminating a local emergency shall be filed promptly with the office of the clerk of the affected municipality or county.

(2) A declaration of a local emergency:

(a) constitutes an official recognition that a disaster situation exists within the affected municipality or county;

(b) provides a legal basis for requesting and obtaining mutual aid or disaster assistance from other political subdivisions or from the state or federal government;

(c) activates the response and recovery aspects of any and all applicable local disaster emergency plans; and

(d) authorizes the furnishing of aid and assistance in relation to the proclamation.

(3) A local emergency proclamation issued under this section shall state:

(a) the nature of the local emergency;

(b) the area or areas that are affected or threatened; and

(c) the conditions which caused the emergency.

(4) The emergency declaration process within the state shall be as follows:

(a) a city, town, or township shall declare to the county;

(b) a county shall declare to the state;

(c) the state shall declare to the federal government; and

(d) a tribe, as defined in Section 23-13-12.5, shall declare as determined under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Sec. 5121 et seq.

(5) Nothing in this part affects:

(a) the governor's authority to declare a state of emergency under Section 53-2a-206; or

(b) the duties, requests, reimbursements, or other actions taken by a political subdivision participating in the state-wide mutual aid system pursuant to Title 53, Chapter 2a, Part 3, Statewide Mutual Aid Act.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-209. Orders, rules, and regulations having force of law -- Filing requirements -- Suspension of state agency rules -- Suspension of enforcement of certain statutes during a state of emergency.**

(1) All orders, rules, and regulations promulgated by the governor, a municipality, a county, or other agency authorized by this part to make orders, rules, and regulations, not in conflict with existing laws except as specifically provided herein, shall have the full force and effect of law during the state of emergency, when a copy of the order, rule, or regulation is filed with:

(a) the Division of Administrative Rules, if issued by the governor or a state agency; or

(b) the office of the clerk of the municipality or county, if issued by the chief executive officer of a municipality or county.

(2) The governor may suspend the provisions of any order, rule, or regulation of any state agency, if the strict compliance with the provisions of the order, rule, or regulation would substantially prevent, hinder, or delay necessary action in coping with the emergency or disaster.

(3) (a) Except as provided in Subsection (3)(b) and subject to Subsections (3)(c) and (d), the governor may by executive order suspend the enforcement of a statute if:

(i) the governor declares a state of emergency in accordance with Section 53-2a-206;

(ii) the governor determines that suspending the enforcement of the statute is:

(A) directly related to the state of emergency described in Subsection (3)(a)(i); and

(B) necessary to address the state of emergency described in Subsection (3)(a)(i);

(iii) the executive order:

(A) describes how the suspension of the enforcement of the statute is:

(I) directly related to the state of emergency described in Subsection (3)(a)(i); and

(II) necessary to address the state of emergency described in Subsection (3)(a)(i); and

(B) provides the citation of the statute that is the subject of suspended enforcement;

(iv) the governor acts in good faith;

(v) the governor provides written notice of the suspension of the enforcement of the statute to the speaker of the House of Representatives and the president of the Senate no later than 24 hours after suspending the enforcement of the statute; and

(vi) the governor makes the report required by Section 53-2a-214.

(b) (i) Except as provided in Subsection (3)(b)(ii), the governor may not suspend the enforcement of a criminal penalty created in statute.

(ii) The governor may suspend the enforcement of a misdemeanor or infraction if:

(A) the misdemeanor or infraction relates to food, health, or transportation; and

(B) the requirements of Subsection (3)(a) are met.

(c) A suspension described in this Subsection (3) terminates no later than the date the governor terminates the state of emergency in accordance with Section 53-2a-206 to which the suspension relates.

(d) The governor:

(i) shall provide the notice required by Subsection (3)(a)(v) using the best available method under the circumstances as determined by the governor; and

(ii) may provide the notice required by Subsection (3)(a)(v) in electronic format.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-210. Reporting on the suspension or modification of certain statutes or rules or the suspension of the enforcement of a statute.**

(1) The governor and the Department of Public Safety shall report the following to the Legislative Management Committee:

(a) a suspension or modification of a statute or rule under Subsection 53-2a-204(1)(j); or

(b) a suspension of the enforcement of a statute under Subsection 53-2a-209(3).

(2) The governor and the Department of Public Safety shall make the report required by this section on or before the sooner of:

(a) the day on which the governor calls the Legislature into session; or

(b) seven days after the date the governor declares the state of emergency to which the suspension or modification relates.

(3) The Legislative Management Committee shall review the suspension or modification of a statute or rule or the suspension of the enforcement of a statute described in Subsection (1) and may:

(a) recommend:

(i) that the governor continue the suspension or modification of the statute or rule or the suspension of the enforcement of the statute; and

(ii) the length of the suspension or modification of the statute or rule or the suspension of the enforcement of the statute;

(b) recommend that the governor terminate the suspension or modification of the statute or rule or the suspension of the enforcement of the statute; or

(c) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the suspension or modification of the statute or rule or the suspension of the enforcement of the statute.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-211. Acquisition of property for public use -- Compensation of**

**owners.**

(1) (a) Upon proclamation of a state of emergency, the governor may purchase or lease public or private property for public use including:

(i) food and medical supplies;

(ii) clothing;

(iii) shelter;

(iv) means of transportation;

(v) fuels;

(vi) oils; or

(vii) buildings or lands.

(b) The governor may not purchase private home storage nor privately owned arms.

(2) (a) The governor may use property purchased under authority of this section for any purpose to meet the needs of an emergency, including its use to relieve want, distress, and disease.

(b) Any property used by the governor to meet the needs of an emergency is a public use.

(3) (a) The governor shall compensate the owner of property taken or used under authority of this section by complying with the procedures established in Title 78B, Chapter 6, Part 5, Eminent Domain.

(b) The governor shall pay for those purchases or leases from the funds available to the Division of Emergency Management under:

(i) this part; or

(ii) Title 53, Chapter 2a, Part 6, Disaster Recovery Funding Act, to the extent provided for in that part.

(4) Nothing in this section applies to or authorizes compensation for the destruction or damage of standing timber or other property in order to provide a fire break or to the release of waters or the breach of impoundments in order to reduce pressure or other danger from actual or threatened flood.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-212. Interstate agreements authorized -- Termination -- Mutual-aid compacts between subdivisions.**

(1) The governor is authorized to execute an interstate agreement or compact on behalf of this state with any other state or states only consistent with the powers herein granted concerning matters relating to a disaster affecting or likely to affect this state.

(2) The agreement or compact shall continue in force and remain binding on each party state until the Legislature or the governor of a party state takes action to withdraw. The action is not effective until 30 days after notice thereof has been sent by the governor of such party state desiring to withdraw to the governors of all other party states.

(3) Political subdivisions are authorized to enter into mutual-aid compacts with other political subdivisions within the state of Utah concerning matters involving cooperative disaster response and recovery assistance support, consistent with this

chapter.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-213. Authority additional to other emergency authority.**

The special disaster emergency authority vested in the governor and political subdivisions of the state pursuant to this part shall be in addition to, and not in lieu of, any other emergency authority otherwise constitutionally or statutorily vested in the governor and political subdivisions of the state.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-214. Prohibition of restrictions on and confiscation of a firearm or ammunition during an emergency.**

(1) As used in this section:

(a) (i) "Confiscate" means for an individual in Utah to intentionally deprive another of a privately owned firearm.

(ii) "Confiscate" does not include the taking of a firearm from an individual:

(A) in self-defense;

(B) possessing a firearm while the individual is committing a felony or misdemeanor; or

(C) who may not, under state or federal law, possess the firearm.

(b) "Firearm" has the same meaning as defined in Section 76-10-501.

(2) During a declared state of emergency or local emergency under this part:

(a) neither the governor nor an agency of a governmental entity or political subdivision of the state may impose restrictions, which were not in force before the declared state of emergency, on the lawful possession, transfer, sale, transport, storage, display, or use of a firearm or ammunition; and

(b) an individual, while acting or purporting to act on behalf of the state or a political subdivision of the state, may not confiscate a privately owned firearm of another individual.

(3) A law or regulation passed during a declared state of emergency that does not relate specifically to the lawful possession or use of a firearm and that has attached criminal penalties may not be used to justify the confiscation of a firearm from an individual acting in defense of self, property, or others when on:

(a) the individual's private property; or

(b) the private property of another as an invitee.

(4) (a) An individual who has a firearm confiscated in violation of Subsection (2) may bring a civil action in a court having the appropriate jurisdiction:

(i) for damages, in the maximum amount of $10,000, against a person who violates Subsection (2);

(ii) for a civil penalty, in the amount of $5,000 per violation, against a person who violates Subsection (2); and

(iii) for return of the confiscated firearm.

(b) As used in this Subsection (4), "person" means an individual, the governmental entity on whose behalf the individual is acting or purporting to act, or both

the individual and the governmental entity.

(5) (a) A law enforcement officer is not subject to disciplinary action for refusing to confiscate a firearm under this section if:

(i) ordered or directed to do so by a superior officer; and

(ii) by obeying the order or direction, the law enforcement officer would be committing a violation of this section.

(b) For purposes of this Subsection (5), disciplinary action might include:

(i) dismissal, suspension, or demotion;

(ii) loss of or decrease in benefits, pay, privileges or conditions of employment; and

(iii) any type of written or electronic indication, permanent or temporary, on the officer's personnel record of the officer's refusal to obey the unlawful order.

(6) (a) If a law enforcement officer commits a violation of this section, the officer's liability in an action brought under Subsection (4)(a) is limited to 5% of the damages and civil penalty allowed under Subsection (4)(a) if the officer can show by clear and convincing evidence that the officer was obeying a direct and unlawful order from a superior officer or authority.

(b) The court shall assess the balance of the damages and civil penalty, the remaining 95%, against the superior officer or authority who ordered or directed the confiscation in violation of this section.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-301. Title.**

This part is known as the "Statewide Mutual Aid Act."

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-302. Definitions.**

As used in this part:

(1) "Emergency responder":

(a) means a person in the public or private sector:

(i) who has special skills, qualification, training, knowledge, or experience, whether or not possessing a license, certificate, permit, or other official recognition for the skills, qualification, training, knowledge, or experience, that would benefit a participating political subdivision in responding to a locally declared emergency or in an authorized drill or exercise; and

(ii) whom a participating political subdivision requests or authorizes to assist in responding to a locally declared emergency or in an authorized drill or exercise; and

(b) includes:

(i) a law enforcement officer;

(ii) a firefighter;

(iii) an emergency medical services worker;

(iv) a physician, nurse, or other public health worker;

(v) an emergency management official;

(vi) a public works worker;

(vii) a building inspector;

(viii) an architect, engineer, or other design professional; or

(ix) a person with specialized equipment operations skills or training or with any other skills needed to provide aid in a declared emergency.

(2) "Participating political subdivision" means each county, municipality, public safety district, and public safety interlocal entity that has not adopted a resolution under Section 53-2a-306 withdrawing itself from the statewide mutual aid system.

(3) "Public safety district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, that provides public safety service.

(4) "Public safety interlocal entity" means an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act, that provides public safety service.

(5) "Public safety service" means a service provided to the public to protect life and property and includes fire protection, police protection, emergency medical service, and hazardous material response service.

(6) "Requesting political subdivision" means a participating political subdivision that requests emergency assistance under Section 53-2a-207 from one or more other participating political subdivisions.

(7) "Responding political subdivision" means a participating political subdivision that responds to a request under Section 53-2a-307 from a requesting political subdivision.

(8) "State" means the state of Utah.

(9) "Statewide mutual aid system" or "system" means the aggregate of all participating political subdivisions and the state.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-303. Statewide mutual aid committee.**

(1) (a) There is established a statewide mutual aid committee consisting of:

(i) the director, who shall chair the committee;

(ii) one or more representatives from state agencies that provide public safety service, appointed by the director;

(iii) one or more representatives of counties, appointed by the director after considering recommendations from the Utah Association of Counties;

(iv) one or more representatives of municipalities, appointed by the director after considering recommendations from the Utah League of Cities and Towns; and

(v) one or more representatives of public safety districts and public safety interlocal entities, appointed by the director after considering recommendations from the Utah Association of Special Districts.

(b) The term of each member appointed under Subsections (1)(a)(ii) through (v) shall be two years.

(c) A committee member may not receive compensation for service on the committee in addition to any compensation received as an employee or official of a state agency or participating political subdivision.

(2) The committee shall meet at least annually to:

(a) review the progress and status of the statewide mutual aid system;

(b) assist in developing methods to track and evaluate activation of the system; and

(c) examine issues facing participating political subdivisions regarding implementation of this part.

(3) The committee shall develop comprehensive guidelines and procedures that address the operation of the system, including:

(a) projected or anticipated costs of responding to emergencies;

(b) checklists for requesting and providing assistance;

(c) record keeping for participating political subdivisions;

(d) reimbursement procedures and other necessary implementation elements and necessary forms for requests; and

(e) other records documenting deployment and return of assets.

(4) The committee may prepare an annual report on the condition and effectiveness of the statewide mutual aid system, make recommendations for correcting any deficiencies, and submit the report to an appropriate legislative committee.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-304. Withdrawal from the statewide mutual aid system.**

A county, municipality, public safety district, or public safety interlocal entity may withdraw from the statewide mutual aid system by:

(1) enacting a resolution declaring that it elects not to participate in the system; and

(2) delivering a copy of the resolution to the director.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-305. Agreements not affected by this part.**

Nothing in this part may be construed:

(1) to limit the state, a county, municipality, local district, special service district, or interlocal entity from entering into an agreement allowed by law for public safety and related purposes; or

(2) to affect an agreement to which the state, a county, municipality, local district, special service district, or interlocal entity is a party.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-306. Duties of the Division of Emergency Management and participating political subdivisions.**

(1) The division shall:

(a) receive and maintain an inventory of the state and local services, equipment, supplies, personnel, and other resources related to participation in Title 53, Chapter 2a, Part 4, Emergency Management Assistance Compact, and this part; and

(b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to prepare and coordinate a process and plans so that the division may assist political subdivisions that are acting as agents of the state in mobilizing or

demobilizing available assets in response to an intrastate or interstate disaster as provided in Title 53, Chapter 2a, Part 4, Emergency Management Assistance Compact.

(2) Each participating political subdivision in the Statewide Mutual Aid Act shall:

(a) identify potential hazards that could affect the participating political subdivision;

(b) conduct joint planning, intelligence sharing, and threat assessment development with contiguous participating political subdivisions and conduct joint training with them at least biennially;

(c) identify and inventory the services, equipment, supplies, personnel, and other resources related to participating political subdivision's planning, prevention, mitigation, response, and recovery activities; and

(d) adopt and implement the standardized incident management system approved by the division.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-307. Requests for disaster assistance or assistance with an authorized drill or exercise.**

(1) The state or a participating political subdivision may request another participating political subdivision to assist:

(a) in preventing, mitigating, responding to, or recovering from a disaster, if the requesting political subdivision declares a local emergency or the state has declared a state of emergency; or

(b) with a drill or exercise that the state or requesting political subdivision has authorized.

(2) Each request under Subsection (1) shall be:

(a) made by the chief executive officer of the state or participating political subdivision or the officer's designee; and

(b) reported as soon as practical to the director.

(3) (a) A request under Subsection (1) may be communicated orally or in writing.

(b) Each request communicated orally shall be reduced to writing and delivered to the other participating political subdivision:

(i) as soon as practical; or

(ii) within the number of days specified by the director.

(4) In responding to a request under Subsection (1), a responding political subdivision may:

(a) donate assets of any kind to a requesting political subdivision; and

(b) withhold its resources to the extent necessary to provide reasonable protection and services for its own residents.

(5) The emergency response personnel, equipment, and other assets of a responding political subdivision or the state shall be under the operational control of the incident management system of the state or requesting political subdivision, except to the extent that the exercise of operational control would result in a violation of a policy, standard, procedure, or protocol of the responding political subdivision or of the state.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-308. Reimbursement -- Resolving reimbursement disputes.**

(1) (a) Each requesting political subdivision shall reimburse each responding political subdivision providing assistance to the requesting political subdivision for any loss or damage suffered or expense or cost incurred by a responding political subdivision in the operation of equipment or in providing a service in response to a request under Section 53-2a-307.

(b) Notwithstanding Subsection (1)(a), a responding political subdivision may, in its discretion:

(i) assume some or all of the loss, damage, expense, or cost; or

(ii) loan equipment or donate services to the requesting political subdivision without charge.

(2) (a) A responding political subdivision may request reimbursement from a requesting political subdivision for the costs of providing disaster relief assistance.

(b) Each request for reimbursement shall comply with the procedures and criteria developed by the committee.

(3) If a dispute concerning reimbursement arises between a requesting political subdivision and a responding political subdivision:

(a) the requesting political subdivision and responding political subdivision shall make every effort to resolve the dispute within 30 days after either provides written notice to the other of the other's noncompliance with applicable procedures or criteria; and

(b) if the dispute is not resolved within 90 days after the notice under Subsection (3)(a), either party may submit the dispute to the committee, whose decision shall be final.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-309. Personnel responding to requests for assistance.**

(1) Each person or entity holding a license, certificate, or other permit evidencing qualification in a professional, mechanical, or other skill and responding to a request from a requesting political subdivision shall, while providing assistance during a declared emergency or during an authorized drill or exercise, be considered to be licensed, certified, or permitted in the requesting political subdivision, except as limited by the chief executive officer of the requesting political subdivision.

(2) Each law enforcement officer rendering aid as provided in this part under the authority of a state of emergency declared by the governor, whether inside or outside the officer's jurisdiction, has all law enforcement powers and the same privileges and immunities that the officer has in the officer's own jurisdiction.

(3) Each employee of a responding political subdivision responding to a request by or giving assistance to a requesting political subdivision or the state as provided in this part:

(a) is entitled to:

(i) all applicable workers compensation benefits for injury or death occurring as a result of the employee's participation in the response or assistance; and

(ii) any additional state or federal benefits available for line of duty injury or death; and

(b) is, for purposes of liability, considered to be an employee of the requesting political subdivision.

(4) Each responding political subdivision and its employees are immune from liability arising out of their actions in responding to a request from a requesting political subdivision to the extent provided in Section 63G-7-201.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-310. Severability.**

A court order declaring any provision of this part unconstitutional or invalid may not be construed to affect the validity of any other provision of this part.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-401. Title.**

This part is known as the "Emergency Management Assistance Compact."

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-402. Compact.**

(1) Article I. Purposes and Authorities.

(1) (a) This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this agreement, the term "states" is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

(b) The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the governor of the affected state, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

(c) This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' national guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

(2) Article II. General Implementation.

(2) (a) Each party state entering into this compact recognizes many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of

delivering resources to areas where emergencies exist.

(b) The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

(c) On behalf of the governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

(3) Article III. Party State Responsibilities.

(3) (a) It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

(i) review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resource shortages, civil disorders, insurgency, or enemy attack;

(ii) review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;

(iii) develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;

(iv) assist in warning communities adjacent to or crossing the state boundaries;

(v) protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material;

(vi) inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and

(vii) provide, to the extent authorized by law, for temporary suspension of any statutes.

(b) The authorized representative of a party state may request assistance of another party state by contacting the authorized representative of that state. The provisions of this agreement shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within 30 days of the verbal request. Requests shall provide the following information:

(i) a description of the emergency service function for which assistance is needed, such as, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;

(ii) the amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed; and

(iii) the specific place and time for staging of the assisting party's response and a point of contact at that location.

(c) There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States government, with free exchange of information, plans, and resource records relating to emergency capabilities.

(4) Article IV. Limitations.

(4) (a) Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

(b) Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the governor of the party state that is to receive assistance or commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

(5) Article V. Licenses and Permits.

Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the governor of the requesting state may prescribe by executive order or otherwise.

(6) Article VI. Liability.

Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes; and no party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

(7) Article VII. Supplementary Agreements.

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this instrument contains elements of a broad base common to all states, and

nothing herein contained shall preclude any state from entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

(8) Article VIII. Compensation.

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

(9) Article IX. Reimbursement.

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this provision.

(10) Article X. Evacuation.

(10) (a) Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant shall be worked out and maintained between the party states and the emergency management or services directors of the various jurisdictions where any type of incident requiring evacuations might occur.

(b) Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors.

(c) Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

(11) Article XI. Implementation.

(11) (a) This compact shall become operative immediately upon its enactment

into law by any two states; thereafter, this compact shall become effective as to any other state upon its enactment by such state.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until 30 days after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

(c) Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the federal emergency management agency and other appropriate agencies of the United States government.

(12) Article XII. Validity.

This part shall be construed to effectuate the purposes stated in Article I hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this part and the applicability thereof to other persons and circumstances shall not be affected thereby.

(13) Article XIII. Additional Provisions.

Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the Army or the Air Force would in the absence of express statutory authorization be prohibited under Section 1385 of Title 18, United States Code.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-403. Authority of governor to join compact.**

The governor of Utah is authorized and directed to execute a compact on behalf of this state with any other state or states joining the Emergency Management Assistance Compact as provided in Section 53-2a-402.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-501. Title.**

This part is known as "Interstate Emergency Responder Mutual Aid Agreement."

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-502. Definitions.**

As used in this part:

(1) "Claim" has the same definition as in the following sections, as applicable:

(a) Section 6-902, Idaho Code; or

(b) Section 63G-7-102, Utah Code Annotated.

(2) "Emergency":

(a) means a situation where it reasonably appears that the life or safety of a person is at peril or real or personal property is at risk of destruction or loss;

(b) includes disasters, fires, persons who are lost or missing, boats that are sinking or are in danger of sinking, medical situations where care is needed, and transportation of persons by ambulance; and

(c) is not limited in duration to a discrete period of time.

(3) (a) "Emergency responder" means a person whose duties include providing services to protect property or the life or safety of any person and who is:

(i) employed by a governmental entity of another state;

(ii) temporarily employed by a governmental entity; or

(iii) a volunteer who is serving at the request of a governmental entity.

(b) "Emergency responder" includes:

(i) law enforcement officers, fire fighters, search and rescue personnel, emergency medical technicians, ambulance personnel, Department of Natural Resources employees, park rangers, public utilities workers, and volunteers participating in search and rescue and other emergency management operations; and

(ii) persons and parties identified in the interstate mutual aid agreement.

(4) "Interstate mutual aid agreement" means an agreement that establishes procedures for claims against an out-of-state emergency responder, and that:

(a) is established reciprocally between the Utah Highway Patrol and the Idaho State Police;

(b) is on file with the Utah Highway Patrol; and

(c) has a duration of one year from the time the agreement is entered into by Utah and Idaho.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-503. Notice of claim requirements.**

(1) Any claim against an emergency responder or the responder's employer shall be treated for the purpose of a notice of claim as a claim against the state.

(2) The person making the claim shall comply with:

(a) Title 63G, Chapter 7, Governmental Immunity Act of Utah; and

(b) any notice of claim requirements of the state where the emergency responder resides or is employed as an emergency responder.

(3) The person filing the claim shall provide a copy of the notice of claim with the Idaho secretary of state if the claim is filed in Utah, or with the Utah attorney general if the claim is filed in Idaho.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-504. Emergency responder entering Utah to respond to an emergency.**

An emergency responder who enters into Utah in response to a request for assistance by an official or emergency responder of Utah or pursuant to an agreement providing for interstate mutual aid is considered to be responding to an emergency.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-505. Privileges and immunities of law enforcement officers.**

Any law enforcement officer of another state and the officer's employer are specifically entitled to the application of this part if the law enforcement officer is empowered to act under Section 19-701, Idaho Code, or an interstate mutual aid agreement.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-506. Privileges and immunities of emergency responders.**

(1) Any emergency responder from another state who enters into this state while responding to an emergency has the same authority to act, including providing care, as does any emergency responder of this state.

(2) All privileges and immunities from liability, exemption from law, ordinances, and rules, and any other benefits, which apply to an emergency responder while performing duties in the responder's state of residence or state of employment as a responder, apply when the emergency responder is acting as an emergency responder in Utah.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-507. Legislative findings -- Comity with Idaho.**

(1) The Legislature finds, with regard to emergency responders, that:

(a) Title 6, Chapter 9, of the Idaho Code, regarding the governmental immunity laws of Idaho, is consistent with the public policy of Utah; and

(b) based on the legislative finding under Subsection (1)(a), the governmental immunity laws of Idaho apply to any claim, including any lawsuit, brought against an emergency responder, who resides in or is employed as an emergency responder in Idaho, and the emergency responder's employer, based on the emergency responder's actions in Utah when acting as an emergency responder.

(2) The Legislature finds:

(a) the damage caps in the governmental immunity laws of Idaho, although not identical to the damage caps under Section 63G-7-604, Utah Code Annotated, are consistent with the public policy of Utah; and

(b) the damage caps of Idaho apply to any claim, including any lawsuit, brought against an emergency responder, who resides in or is employed as an emergency responder in Idaho, and the emergency responder's employer, based on the emergency responder's actions in Utah when acting as an emergency responder.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-508. Chapter takes effect when Idaho provisions enacted.**

(1) This chapter takes effect when statutory provisions are enacted by Idaho that are reciprocal to the provisions of this part.

(2) This part remains in effect as long as the statutory provisions enacted by Idaho under Subsection (1) are in effect.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-601. Title.**

This part is known as the "Disaster Recovery Funding Act."

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-602. Definitions.**

(1) Unless otherwise defined in this section, the terms defined in Part 1, Emergency Management Act, shall have the same meaning for this part.

(2) As used in this part:

(a) "Declared disaster" means one or more events:

(i) within the state;

(ii) that occur within a limited period of time;

(iii) that involve:

(A) a significant number of persons being at risk of bodily harm, sickness, or death; or

(B) a significant portion of real property at risk of loss;

(iv) that are sudden in nature and generally occur less frequently than every three years; and

(v) that results in:

(A) the president of the United States declaring an emergency or major disaster in the state;

(B) the governor declaring a state of emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act; or

(C) the chief executive officer of a local government declaring a local emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act.

(b) "Disaster recovery fund" means the State Disaster Recovery Restricted Account created in Section 53-2a-603.

(c) "Emergency preparedness" means the following done for the purpose of being prepared for an emergency as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) the purchase of equipment;

(ii) the training of personnel; or

(iii) the obtaining of a certification.

(d) (i) "Emergency disaster services" means the following:

(A) evacuation;

(B) shelter;

(C) medical triage;

(D) emergency transportation;

(E) repair of infrastructure;

(F) safety services, including fencing or roadblocks;

(G) sandbagging;

(H) debris removal;

(I) temporary bridges;

(J) procurement and distribution of food, water, or ice;

(K) procurement and deployment of generators;
(L) rescue or recovery;
(M) emergency protective measures; or
(N) services similar to those described in Subsections (2)(d)(i)(A) through (M), as defined by the division by rule, that are generally required in response to a declared disaster.
(ii) "Emergency disaster services" does not include:
(A) emergency preparedness; or
(B) notwithstanding whether or not a county participates in the Wildland Fire Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs that may be paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland Fire Suppression Fund.
(e) "Governing body" means:
(i) for a county, city, or town, the legislative body of the county, city, or town;
(ii) for a local district, the board of trustees of the local district; and
(iii) for a special service district:
(A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or
(B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301.
(f) "Local district" has the same meaning as defined in Section 17B-1-102.
(g) "Local fund" means a local government disaster fund created in accordance with Section 53-2a-605.
(h) "Local government" means:
(i) a county;
(ii) a city or town; or
(iii) a local district or special service district that:
(A) operates a water system;
(B) provides transportation service;
(C) provides, operates, and maintains correctional and rehabilitative facilities and programs for municipal, state, and other detainees and prisoners;
(D) provides consolidated 911 and emergency dispatch service;
(E) operates an airport; or
(F) operates a sewage system.
(i) "Special fund" means a fund other than a general fund of a local government that is created for a special purpose established under the uniform system of budgeting, accounting, and reporting.
(j) "Special service district" has the same meaning as defined in Section 17D-1-102.

Amended by Chapter 117, 2013 General Session
Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-603. State Disaster Recovery Restricted Account.**
(1) (a) There is created a restricted account in the General Fund known as the

"State Disaster Recovery Restricted Account."

(b) The disaster recovery fund shall consist of:

(i) money deposited into the disaster recovery fund in accordance with Section 63J-1-314;

(ii) money appropriated to the disaster recovery fund by the Legislature; and

(iii) any other public or private money received by the division that is:

(A) given to the division for purposes consistent with this section; and

(B) deposited into the disaster recovery fund at the request of:

(I) the division; or

(II) the person giving the money.

(c) The Division of Finance shall deposit interest or other earnings derived from investment of fund money into the General Fund.

(2) Subject to being appropriated by the Legislature, money in the disaster recovery fund may only be expended or committed to be expended as follows:

(a) (i) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that does not exceed $250,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster;

(ii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds $250,000, but does not exceed $1,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if the division:

(A) before making the expenditure or commitment to expend, obtains approval for the expenditure or commitment to expend from the governor;

(B) subject to Subsection (5), provides written notice of the expenditure or commitment to expend to the speaker of the House of Representatives, the president of the Senate, the Division of Finance, and the Office of the Legislative Fiscal Analyst no later than 72 hours after making the expenditure or commitment to expend; and

(C) makes the report required by Subsection 53-2a-606(2);

(iii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds $1,000,000, but does not exceed $3,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if, before making the expenditure or commitment to expend, the division:

(A) obtains approval for the expenditure or commitment to expend from the governor; and

(B) submits the expenditure or commitment to expend to the Executive Appropriations Committee in accordance with Subsection 53-2a-606(3); and

(iv) in any fiscal year the division may expend or commit to expend an amount that does not exceed $150,000 to fund expenses incurred by the National Guard if:

(A) in accordance with Section 39-1-5, the governor orders into active service the National Guard in response to a declared disaster; and

(B) the money is not used for expenses that qualify for payment as emergency disaster services; and

(b) subject to being appropriated by the Legislature, money not described in Subsections (2)(a)(i), (ii), and (iii) may be expended or committed to be expended to

fund costs to the state directly related to a declared disaster that are not costs related to:

(i) emergency disaster services;

(ii) emergency preparedness; or

(iii) notwithstanding whether a county participates in the Wildland Fire Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs that may be paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland Fire Suppression Fund.

(3) The state treasurer shall invest money in the disaster recovery fund according to Title 51, Chapter 7, State Money Management Act.

(4) (a) Except as provided in Subsections (1) and (2), the money in the disaster recovery fund may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.

(b) Notwithstanding Section 63J-1-410, the Legislature may not appropriate money from the disaster recovery fund to eliminate or otherwise reduce an operating deficit if the money appropriated from the disaster recovery fund is expended or committed to be expended for a purpose other than one listed in this section.

(c) The Legislature may not amend the purposes for which money in the disaster recovery fund may be expended or committed to be expended except by the affirmative vote of two-thirds of all the members elected to each house.

(5) The division:

(a) shall provide the notice required by Subsection (2)(a)(ii) using the best available method under the circumstances as determined by the division; and

(b) may provide the notice required by Subsection (2)(a)(ii) in electronic format.

Amended by Chapter 117, 2013 General Session
Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-604. State costs for emergency disaster services.**

(1) Subject to this section and Section 53-2a-603, the division may expend or commit to expend money described in Subsection 53-2a-603(2)(a)(i), (ii), or (iii) to fund costs to the state of emergency disaster services if, at the discretion of the division, the expenditure is necessary in response to the disaster.

(2) Money paid by the division under this section to government entities and private persons providing emergency disaster services are subject to Title 63G, Chapter 6a, Utah Procurement Code.

Amended by Chapter 117, 2013 General Session, (Coordination Clause)
Amended by Chapter 117, 2013 General Session
Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-605. Local government disaster funds.**

(1) (a) Subject to this section and notwithstanding anything to the contrary contained in Title 10, Utah Municipal Code, or Title 17, Counties, Title 17B, Limited Purpose Local Government Entities - Local Districts, or Title 17D, Chapter 1, Special Service District Act, the governing body of a local government may create and maintain

by ordinance a special fund known as a local government disaster fund.

(b) The local fund shall consist of:

(i) subject to the limitations of this section, money transferred to it in accordance with Subsection (2);

(ii) any other public or private money received by the local government that is:

(A) given to the local government for purposes consistent with this section; and

(B) deposited into the local fund at the request of:

(I) the governing body of the local government; or

(II) the person giving the money; and

(iii) interest or income realized from the local fund.

(c) Interest or income realized from the local fund shall be deposited into the local fund.

(d) Money in a local fund may be:

(i) deposited or invested as provided in Section 51-7-11; or

(ii) transferred by the local government treasurer to the state treasurer under Section 51-7-5 for the state treasurer's management and control under Title 51, Chapter 7, State Money Management Act.

(e) (i) The money in a local fund may accumulate from year to year until the local government governing body determines to spend any money in the local fund for one or more of the purposes specified in Subsection (3).

(ii) Money in a local fund at the end of a fiscal year:

(A) shall remain in the local fund for future use; and

(B) may not be transferred to any other fund or used for any other purpose.

(2) The amounts transferred to a local fund may not exceed 10% of the total estimated revenues of the local government for the current fiscal period that are not restricted or otherwise obligated.

(3) Money in the fund may only be used to fund the services and activities of the local government creating the local fund in response to:

(a) a declared disaster within the boundaries of the local government;

(b) the aftermath of the disaster that gave rise to a declared disaster within the boundaries of the local government; and

(c) subject to Subsection (5), emergency preparedness.

(4) (a) A local fund is subject to this part and:

(i) in the case of a town, Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, except that:

(A) in addition to the funds listed in Section 10-5-106, the mayor shall prepare a budget for the local fund;

(B) Section 10-5-119 addressing termination of special funds does not apply to a local fund; and

(C) the council of the town may not authorize an interfund loan under Section 10-5-120 from the local fund;

(ii) in the case of a city, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, except that:

(A) in addition to the funds listed in Section 10-6-109, the mayor shall prepare a budget for the local fund;

(B) Section 10-6-131 addressing termination of special funds does not apply to

a local fund; and

(C) the governing body of the city may not authorize an interfund loan under Section 10-6-132 from the local fund; and

(iii) in the case of a county, Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, except that:

(A) Section 17-36-29 addressing termination of special funds does not apply to a local fund; and

(B) the governing body of the county may not authorize an interfund loan under Section 17-36-30 from the local fund; and

(iv) in the case of a local district or special service district, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, except that:

(A) Section 17B-1-625, addressing termination of a special fund, does not apply to a local fund; and

(B) the governing body of the local district or special service district may not authorize an interfund loan under Section 17B-1-626 from the local fund.

(b) Notwithstanding Subsection (4)(a), transfers of money to a local fund or the accumulation of money in a local fund do not affect any limits on fund balances, net assets, or the accumulation of retained earnings in any of the following of a local government:

(i) a general fund;

(ii) an enterprise fund;

(iii) an internal service fund; or

(iv) any other fund.

(5) (a) A local government may not expend during a fiscal year more than 10% of the money budgeted to be deposited into a local fund during that fiscal year for emergency preparedness.

(b) The amount described in Subsection (5)(a) shall be determined before the adoption of the tentative budget.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-606. Reporting.**

(1) By no later than December 31 of each year, the division shall provide a written report to the governor and the Executive Offices and Criminal Justice Appropriations Subcommittee of:

(a) the division's activities under this part;

(b) money expended or committed to be expended in accordance with this part;

(c) the balances in the disaster recovery fund; and

(d) any unexpended balance of appropriations from the disaster recovery fund.

(2) (a) The governor and the Department of Public Safety shall report to the Legislative Management Committee an expenditure or commitment to expend made in accordance with Subsection 53-2a-603(2)(a)(ii).

(b) The governor and the Department of Public Safety shall make the report required by this Subsection (2) on or before the sooner of:

(i) the day on which the governor calls the Legislature into session; or

(ii) 15 days after the division makes the expenditure or commitment to expend

described in Subsection 53-2a-603(2)(a)(ii).

(3) (a) Subject to Subsection (3)(b), before the division makes an expenditure or commitment to expend described in Subsection 53-2a-603(2)(a)(iii), the governor and the Department of Public Safety shall submit the expenditure or commitment to expend to the Executive Appropriations Committee for its review and recommendations.

(b) The Executive Appropriations Committee shall review the expenditure or commitment to expend and may:

(i) recommend that the division make the expenditure or commitment to expend;

(ii) recommend that the division not make the expenditure or commitment to expend; or

(iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the expenditure or commitment to expend.

Amended by Chapter 117, 2013 General Session
Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-701. Title.**

This part is known as the "Hazardous Materials Emergency Act."

Enacted by Chapter 295, 2013 General Session

**53-2a-702. Hazardous Chemical Emergency Response Commission -- Allocation of responsibilities -- Local planning committees -- Specified federal law considered law of state -- Application to federal agencies and facilities.**

(1) (a) The commissioner and the executive director of the Department of Environmental Quality, or their respective designees, are designated as the state's Hazardous Chemical Emergency Response Commission for purposes of carrying out all requirements of the federal Emergency Planning and Community Right To Know Act of 1986.

(b) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(2) The Department of Public Safety has primary responsibility for all emergency planning activities under the federal Emergency Planning and Community Right To Know Act of 1986, and shall prepare policy and procedure and make rules necessary for implementation of that act in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) The Department of Environmental Quality has primary responsibility for receiving, processing, and managing hazardous chemical information and notifications under the federal Emergency Planning and Community Right To Know Act of 1986, including preparation of policy and procedure, and promulgation of rules necessary for implementation of that act. Funding for this program must be from the appropriation acts.

(4) The Department of Public Safety and the Department of Environmental Quality shall enter into an interagency agreement providing for exchange of information and coordination of their respective duties and responsibilities under this section.

(5) (a) The Hazardous Chemical Emergency Response Commission shall appoint a local planning committee for each local planning district that it establishes, as required by the federal Emergency Planning and Community Right To Know Act of 1986, and to the extent possible, shall use an existing local governmental organization as the local planning committee.

(b) (i) Local government members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Local government members may decline to receive per diem and expenses for their service.

(6) Requirements of the federal Emergency Planning and Community Right To Know Act of 1986 pertaining to notification and submission of information are the law of this state, and apply equally to federal agencies, departments, installations, and facilities located in this state, as well as to other facilities that are subject to that act.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-703. Hazardous materials emergency -- Recovery of expenses.**

(1) (a) The Hazardous Chemical Emergency Response Commission may recover from those persons whose negligent actions caused the hazardous materials emergency, expenses incurred by state agencies directly associated with a response to a hazardous materials emergency taken under authority of this part, Title 53, Chapter 2a, Part 1, Emergency Management Act, or Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act.

(b) The payment of expenses under this Subsection (1) does not constitute an admission of liability or negligence in any legal action for damages.

(c) The Hazardous Chemical Emergency Response Commission may obtain assistance from the attorney general or a county attorney of the affected jurisdiction to assist in recovering expenses and legal fees.

(d) Any recovered costs shall be deposited in the General Fund as dedicated credits to be used by the division to reimburse state and local government agencies for the costs they have incurred.

(2) (a) If the cost directly associated with emergency response exceeds all available funds of the division within a given fiscal year, the division, with approval from the governor, may incur a deficit in its line item budget.

(b) The Legislature shall provide a supplemental appropriation in the following year to cover the deficit.

(c) The division shall deposit all costs associated with any emergency response that are collected in subsequent fiscal years into the General Fund.

(3) Any political subdivision may enact local ordinances pursuant to existing statutory or constitutional authority to provide for the recovery of expenses incurred by the political subdivision.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-801. Title.**

This part is known as the "Emergency Interim Succession Act."

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-802. Definitions.**

(1) (a) "Absent" means:

(i) not physically present or not able to be communicated with for 48 hours; or

(ii) for local government officers, as defined by local ordinances.

(b) "Absent" does not include a person who can be communicated with via telephone, radio, or telecommunications.

(2) "Department" means the Department of Administrative Services, the Department of Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of Commerce, the Department of Heritage and Arts, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Resource Management, the Department of Workforce Services, the Labor Commission, the National Guard, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Department of Human Services, the State Tax Commission, the Department of Technology Services, the Department of Transportation, any other major administrative subdivisions of state government, the State Board of Education, the State Board of Regents, the Utah Housing Corporation, the Workers' Compensation Fund, the State Retirement Board, and each institution of higher education within the system of higher education.

(3) "Division" means the Division of Emergency Management established in Title 53, Chapter 2a, Part 1, Emergency Management Act.

(4) "Emergency interim successor" means a person designated by this part to exercise the powers and discharge the duties of an office when the person legally exercising the powers and duties of the office is unavailable.

(5) "Executive director" means the person with ultimate responsibility for managing and overseeing the operations of each department, however denominated.

(6) (a) "Office" includes all state and local offices, the powers and duties of which are defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

(b) "Office" does not include the office of governor or the legislative or judicial offices.

(7) "Place of governance" means the physical location where the powers of an office are being exercised.

(8) "Political subdivision" includes counties, cities, towns, townships, districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

(9) "Political subdivision officer" means a person holding an office in a political subdivision.

(10) "State officer" means the attorney general, the state treasurer, the state auditor, and the executive director of each department.

(11) "Unavailable" means:

(a) absent from the place of governance during a disaster that seriously disrupts normal governmental operations, whether or not that absence or inability would give rise to a vacancy under existing constitutional or statutory provisions; or

(b) as otherwise defined by local ordinance.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-803. Emergency interim successor to office of governor.**

(1) If the governor is unavailable, and if the lieutenant governor, president of the Senate, and the speaker of the House of Representatives are unavailable to exercise the powers and duties of the office of governor, the attorney general, state auditor, or state treasurer shall, in the order named, exercise the powers and duties of the office of governor until:

(a) the governor, lieutenant governor, president of the Senate, or speaker of the House of Representatives becomes available; or

(b) a new governor is elected and qualified.

(2) Notwithstanding the provisions of Subsection (1), no emergency interim successor to the lieutenant governor, president of the Senate, speaker of the House of Representatives, attorney general, state auditor, or state treasurer may serve as governor.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-804. Emergency interim successors for state officers.**

(1) By July 1 of each year, each state officer shall:

(a) designate three qualified emergency interim successors from within the state officer's department who meet the constitutional qualifications for the office, if any;

(b) specify their order of succession;

(c) provide a list of those designated successors to the division; and

(d) notify emergency interim successors within 30 days of designation.

(2) (a) If any state officer is unavailable following a disaster, and if the state officer's deputy, if any, is also unavailable, a designated emergency interim successor shall exercise the powers and duties of the office according to the order of succession specified by the state officer.

(b) An emergency interim successor other than the attorney general, state auditor, or state treasurer shall exercise the state officer's powers and duties only until:

(i) the person exercising the powers and duties of the office of governor appoints a successor to fill the vacancy;

(ii) a permanent successor is appointed or elected and qualified as provided by law; or

(iii) the state officer, the state officer's deputy, or an emergency interim successor earlier in the order of succession becomes available to exercise or resume the exercise of the powers and duties of the office.

(c) An emergency interim successor of the attorney general, state auditor, or state treasurer shall exercise the powers and duties of those offices only until:

(i) a permanent successor is appointed or elected and qualified as provided by law; or

(ii) the attorney general, state auditor, or state treasurer, their deputy, or an emergency interim successor earlier in the order of succession becomes available to exercise or resume the exercise of the powers and duties of the office.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-805. Division to consult with legislative and judicial branch.**

The Division of Emergency Management may consult with the Legislative Management Committee, the Judicial Council, and legislative and judicial staff offices to assist the division in preparing emergency succession plans and procedures.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-806. Place of legislative session.**

(1) If the governor or the governor's interim successor declares a state of emergency or finds that a state of emergency is imminent, and the governor or the interim successor determines that the prescribed place of session is unsafe, the governor may change the place of session to any place in Utah that the governor considers safe and convenient.

(2) Each legislator shall proceed to the place of session as expeditiously as practicable.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-807. Emergency interim successors for local officers.**

(1) By July 1 of each year, each political subdivision officer shall:

(a) designate three emergency interim successors;

(b) specify their order of succession; and

(c) provide a list of those designated successors to the division.

(2) In the event that a political subdivision does not designate emergency interim successors as required under Subsection (1), the order of succession shall be as follows:

(a) the chief executive officer of the political subdivision;

(b) the chief deputy executive officer of the political subdivision;

(c) the chair of the legislative body of the political subdivision; and

(d) the chief law enforcement officer of the political subdivision.

(3) (a) Notwithstanding any other provision of law:

(i) if any political subdivision officer or the political subdivision officer's legal deputy, if any, is unavailable, a designated emergency interim successor shall exercise the powers and duties of the office according to the order of succession specified by the political subdivision officer; or

(ii) counties may provide by ordinance that one member of the county legislative

body may act as the county legislative body if the other members are absent.

(b) An emergency interim successor shall exercise the powers and duties of the office only until:

(i) the vacancy is filled in accordance with the constitution or statutes; or

(ii) the political subdivision officer, the political subdivision officer's deputy, or an emergency interim successor earlier in the order of succession becomes available to exercise the powers and duties of the office.

(4) The legislative bodies of each political subdivision may enact resolutions or ordinances consistent with this part and also provide for emergency interim successors to officers of the political subdivision not governed by this section.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-808. Formalities of taking office.**

(1) At the time that they are appointed as emergency interim successors or special emergency judges, emergency interim successors and special emergency judges shall sign prospectively whatever oath is required to enable them to exercise the powers and duties of the office to which they may succeed.

(2) Notwithstanding any other provision of law, no person is required to comply with any other provision of law relative to taking office as a prerequisite to the exercise of the powers or discharge of the duties of an office to which the person succeeds.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-809. Period in which authority may be exercised.**

(1) Persons authorized to act as governor, emergency interim successors, and special emergency judges shall exercise the powers and duties of the office to which they succeed only when a disaster has occurred.

(2) (a) Emergency interim successors serve for 30 days after the date the governor or the governor's emergency successor calls the Legislature into special session, unless the unavailability of the elected official ends or an emergency interim successor earlier in the order of succession becomes available before expiration of the 30-day period.

(b) Notwithstanding the provisions of Subsection (2)(a), if the emergency interim successor is serving for a legislator who is killed or resigns, the emergency interim successor shall serve until the legislator's legal replacement is sworn in.

(3) The Legislature, by concurrent resolution, may:

(a) terminate the authority of any or all emergency interim successors and special emergency judges to exercise the powers and duties of their office at any time; and

(b) extend the time during which any or all emergency interim successors and special emergency judges may exercise the powers and duties of their office.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-810. Removal of designees.**

Until the persons designated as emergency interim successors or special emergency judges succeed to the exercise of the powers and duties of an office, they shall serve as emergency interim successors or special emergency judges at the pleasure of the designating authority and may be removed and replaced by the designating authority at any time, with or without cause.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-811. Disputes.**

Except for factual disputes concerning the office of governor, the governor shall adjudicate any dispute concerning a question of fact arising under this part concerning a state officer. The governor's decision is final.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-812. Governor to declare location of emergency seat of government.**

(1) Whenever, due to an emergency resulting from the effects of a disaster, it becomes imprudent, inexpedient, or impossible to conduct the affairs of the state government in Salt Lake City, Utah, the governor shall:

(a) by proclamation, declare an emergency temporary location for the seat of government in Utah; and

(b) take whatever action and issue whatever orders are necessary for an orderly transition of the affairs of the state government to that emergency temporary location.

(2) That emergency temporary location shall remain as the seat of government until the Legislature establishes a new location by law, or until the emergency is declared to be ended by the governor and the seat of government is returned to its normal location.

(3) Local governments may provide, by ordinance, for temporary emergency locations for the seat of government.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-813. Official acts at emergency seat of government -- Validity.**

During the time when the seat of government remains at an emergency location, all official acts required by law to be performed at the seat of government by any officer, agency, department, or authority of this state or local government, including the convening and meeting of the Legislature in regular, extraordinary, or emergency session, shall be as valid and binding as when performed at the normal location of the seat of government.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-901. Title.**

This part is known as the "Energy Emergency Plan."

Enacted by Chapter 295, 2013 General Session

**53-2a-902. Energy emergency plan.**

(1) The division shall develop an energy emergency plan consistent with Title 53, Chapter 2a, Part 10, Energy Emergency Powers of the Governor Act.

(2) In developing the energy emergency plan, the division shall coordinate with:

(a) the Division of Public Utilities;

(b) the Division of Oil, Gas, and Mining;

(c) the Division of Air Quality; and

(d) the Department of Agriculture and Food with regard to weights and measures.

(3) The energy emergency plan shall:

(a) designate the division as the entity that will coordinate the implementation of the energy emergency plan;

(b) provide for annual review of the energy emergency plan;

(c) provide for cooperation with public utilities and other relevant private sector persons;

(d) provide a procedure for maintaining a current list of contact persons required under the energy emergency plan; and

(e) provide that the energy emergency plan may only be implemented if the governor declares:

(i) a state of emergency as provided in Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act; or

(ii) a state of emergency related to energy as provided in Title 53, Chapter 2a, Part 10, Energy Emergency Powers of the Governor Act.

(4) If an event requires the implementation of the energy emergency plan, the division shall report on that event and the implementation of the energy emergency plan to:

(a) the governor; and

(b) the Public Utilities and Technology Interim Committee.

(5) If the energy emergency plan includes a procedure for obtaining information, the energy emergency plan shall incorporate reporting procedures that conform to existing requirements of federal, state, and local regulatory authorities wherever possible.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-1001. Title.**

This part is known as the "Energy Emergency Powers of the Governor Act."

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-1002. Legislative findings and purpose.**

(1) The Legislature finds that the lack of energy resources and other energy resource emergencies may threaten the availability of essential services and transportation and the operation of the economy, jeopardizing the peace, health, safety, and welfare of the people of this state.

(2) The Legislature further finds that it is necessary to provide an orderly

procedure for anticipating and responding to energy resource shortages and disruptions and to grant, under conditions prescribed in this part, emergency powers to the governor to order involuntary curtailments in the use of energy resources.

(3) The Legislature further finds and declares that it is the policy of this state to assist the United States in effective management and control of factors and situations as contribute to an emergency affecting or likely to affect this state; to cooperate with other states in matters related to an emergency affecting or likely to affect this state; to meet extraordinary conditions in this state arising out of the crisis by taking steps as are necessary and appropriate; and generally to protect the peace, health, safety, and welfare of the people of this state.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-1003. "Energy resources" defined.**

As used in this part, "energy resources" includes electricity, natural gas, gasoline and middle distillates, coal, wood fuels, geothermal sources, radioactive materials, and any other resource yielding energy.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-1004. Information-gathering powers -- Subpoena power -- Coordination with other regulatory authorities.**

(1) On a continuing basis the governor may obtain all necessary information from energy resource producers, manufacturers, suppliers, and consumers doing business within, and from political subdivisions in, this state as necessary to determine whether shortages or an emergency will require energy resource conservation measures. This information may include, but shall not be limited to:

(a) sales volumes;

(b) forecasts of energy resource requirements;

(c) from manufacturers, suppliers, and consumers, an inventory of energy resources; and

(d) local distribution patterns of the information described in Subsections (1)(a), (1)(b), and (1)(c).

(2) In obtaining information at any time from energy resource producers, manufacturers, suppliers, or consumers under Subsection (1)(c) and in obtaining any other information under Subsection (1) during a state of emergency proclaimed, the governor may subpoena witnesses, material and relevant books, papers, accounts, records, and memoranda, administer oaths, and cause the depositions of persons residing within or without the state to be taken in the manner prescribed for depositions in civil actions in district courts, to obtain information relevant to energy resources that are the subject of the proclaimed emergency.

(3) In obtaining information under this section the governor shall:

(a) seek to avoid eliciting information already furnished by a person or political subdivision in this state to a federal, state, or local regulatory authority that is available for the governor's study; and

(b) cause reporting procedures, including forms, to conform to existing

requirements of federal, state, and local regulatory authorities wherever possible.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-1005. Confidential nature of information preserved -- Relief from subpoena -- Unauthorized disclosure as misdemeanor -- Removal from office.**

(1) Information furnished pursuant to Section 53-2a-1004 and designated by that person as confidential shall be maintained as confidential by the governor and any person who obtains information which the person knows to be confidential under this part. The governor shall not make known in any manner any particulars of such information to persons other than those specified in Subsection (4). No subpoena or judicial order may be issued compelling the governor or any other person to divulge or make known such confidential information, except when relevant to a prosecution for violation of Subsection (5).

(2) Nothing in this section shall prohibit the use of confidential information to prepare statistics or other general data for publication, so presented as to prevent identification of particular persons.

(3) Any person who is served with a subpoena to give testimony orally or in writing, or to produce books, papers, correspondence, memoranda, agreements, or other documents or records pursuant to this part may apply to any district court of this state for protection against abuse or hardship in the manner provided by law.

(4) References to the governor in this section include the governor and any other individuals designated for this purpose in writing by the governor.

(5) Any person who wilfully discloses confidential information in violation of this section is guilty of a class A misdemeanor and, in addition, may be subject to removal from office or immediate dismissal from public employment.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-1006. Curtailment of energy use -- Standby priorities -- Restriction on involuntary curtailment.**

In consultation with appropriate federal and state officials and officials of political subdivisions in this state, the governor shall cause to be established, and revised as appropriate, standby priorities for curtailment in the use of energy resources. Involuntary curtailments, however, may be ordered only by means of executive orders issued pursuant to this part.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-1007. Proclamation of emergency -- Effective period -- Extension of renewal by Legislature.**

(1) (a) The governor may issue a proclamation declaring that a state of emergency exists with regard to one or more energy resources if the governor determines that an existing or imminent severe disruption or impending shortage in the supply of one or more energy resources, in this state or elsewhere:

(i) threatens:

(A) the availability of essential services or transportation; or

(B) the operation of the economy; and

(ii) because of the threats described in Subsection (1)(a)(i), jeopardizes the peace, health, safety, and welfare of the people of this state.

(b) The proclamation declaring a state of emergency described in Subsection (1)(a) shall state with specificity the nature of the disruption or shortage in an energy resource.

(c) (i) Within seven calendar days of the day on which the governor issues a proclamation declaring a state of emergency under this section, the Legislative Management Committee shall:

(A) review the proclamation; and

(B) advise the governor on the proclamation.

(ii) The failure of the Legislative Management Committee to meet as required by Subsection (1)(c)(i) does not affect the validity of the proclamation declaring a state of emergency.

(2) (a) A proclamation issued under this section, and any order or rule issued as a result of the proclamation shall continue in effect until 60 days from the date of the proclamation of the state of emergency unless the governor rescinds the proclamation and declares the emergency ended prior to the expiration of this 60-day period.

(b) A proclamation issued within 30 days of the expiration of a prior proclamation for the same emergency shall be considered a renewal or extension subject to Subsection (3).

(3) A proclamation may be renewed or extended only by joint resolution of the Legislature.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-1008. Curtailment, adjustment, and allocation of energy use by executive orders -- Limitations and considerations in issuance and application.**

(1) Upon issuance of a proclamation pursuant to Section 53-2a-1007, the governor in addition may by executive order:

(a) require reduction in energy resource usage and the application of conservation, prevention of waste, and the salvaging of energy resources and the materials, services, and facilities derived therefrom or dependent thereon, by state agencies and political subdivisions in this state;

(b) direct the establishment by state agencies and political subdivisions in this state of programs necessary to implement and comply with federal energy conservation programs where these programs have not theretofore been so established, including, but not limited to, allocation or rationing of energy resources and the distribution of the state's discretionary allotments;

(c) require involuntary curtailments, adjustments, or allocations in the supply and consumption of energy resources applicable to all suppliers and consumers including, but not limited to, specification of the times and manner in which these resources are supplied or consumed; or

(d) prescribe and direct activities promoting the conservation, prevention of waste, and salvage of energy resources and the materials, services, and facilities

derived therefrom or dependent thereon, including, but not limited to, the modification of transportation routes and schedules, or the suspension of weight limits or other restrictions from the transportation of energy resources, to the extent permissible under federal law and regulations.

(2) Any restrictions, curtailments, adjustments, or allocations pursuant to Subsection (1) shall:

(a) be ordered and continue only so long as demonstrably necessary for the maintenance of essential services or transportation, or the continued operation of the economy but no longer than the duration of the proclamation;

(b) be applied as uniformly as practicable within each class of suppliers and consumers and without discrimination within a class; and

(c) give due consideration to the needs of commercial, retail, professional, and service establishments whose normal function is to supply goods or services or both of an essential nature, including, but not limited to, food, lodging, fuel, or medical care facilities during times of the day other than conventional daytime working hours.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-1009. Other emergency powers of governor unaffected.**

The powers vested in the governor under this part shall be in addition to, and not in lieu of, any other emergency powers otherwise constitutionally or statutorily vested in the governor.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-1010. Existing agencies to be used in implementation.**

The governor shall use, to the extent practicable, existing state boards, commissions, or agencies or officers or employees for the purpose of carrying out the provisions of this part.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-1011. Enforcement of orders and rules.**

The governor may apply to any district court for appropriate equitable relief against any person violating or failing to carry out the provisions of this part or any order or rule issued pursuant to this part.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-1012. Rules and regulations -- Approval by Legislature.**

The board, commission, or agency designated by the governor for carrying out the provisions of this part is authorized to promulgate rules and regulations as are necessary for effective administration of this part with approval of the Legislature.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-1101. Title.**

This part is known as the "Search and Rescue Act."

Enacted by Chapter 295, 2013 General Session

**53-2a-1102. Search and Rescue Financial Assistance Program -- Uses -- Rulemaking -- Distribution.**

(1) (a) "Reimbursable expenses," as used in this section, means those reasonable expenses incidental to search and rescue activities.

(b) "Reimbursable expenses" include:

(i) rental for fixed wing aircraft, helicopters, snowmobiles, boats, and generators;

(ii) replacement and upgrade of search and rescue equipment;

(iii) training of search and rescue volunteers;

(iv) costs of providing workers' compensation benefits for volunteer search and rescue team members under Section 67-20-7.5; and

(v) any other equipment or expenses necessary or appropriate for conducting search and rescue activities.

(c) "Reimbursable expenses" do not include any salary or overtime paid to any person on a regular or permanent payroll, including permanent part-time employees of any agency or political subdivision of the state.

(2) There is created the Search and Rescue Financial Assistance Program within the division.

(3) (a) The program shall be funded from the following revenue sources:

(i) any voluntary contributions to the state received for search and rescue operations;

(ii) money received by the state under Section 23-19-42, Section 41-22-34, and Section 73-18-24; and

(iii) appropriations made to the program by the Legislature.

(b) All funding for the program shall be nonlapsing.

(4) The director shall use the money to reimburse counties for all or a portion of each county's reimbursable expenses for search and rescue operations, subject to:

(a) the approval of the Search and Rescue Advisory Board as provided in Section 53-2a-1104;

(b) money available in the program; and

(c) rules made under Subsection (7).

(5) Program money may not be used to reimburse for any paid personnel costs or paid man hours spent in emergency response and search and rescue related activities.

(6) The Legislature finds that these funds are for a general and statewide public purpose.

(7) The division, with the approval of the Search and Rescue Advisory Board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this act:

(a) specifying the costs that qualify as reimbursable expenses;

(b) defining the procedures of agencies to submit expenses and be reimbursed; and

(c) providing a formula to govern the distribution of available money among the counties for uncompensated search and rescue expenses based on:

(i) the total qualifying expenses submitted;

(ii) the number of search and rescue incidents per county population;

(iii) the number of victims that reside outside the county; and

(iv) the number of volunteer hours spent in each county in emergency response and search and rescue related activities per county population.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-1103. Search and Rescue Advisory Board -- Members -- Compensation.**

(1) There is created the Search and Rescue Advisory Board consisting of seven members appointed as follows:

(a) two representatives designated by the Utah Search and Rescue Association, one of whom is from a county having a population of 75,000 or more; and one from a county having a population of less than 75,000;

(b) three representatives designated by the Utah Sheriff's Association, at least one of whom shall be a member of a voluntary search and rescue unit operating in the state, at least one of whom shall be from a county having a population of 75,000 or more, and at least one of whom shall be from a county having a population of less than 75,000;

(c) one representative of the Division of Emergency Management designated by the director; and

(d) one private citizen appointed by the governor with the consent of the Senate.

(2) (a) The term of each member of the board is four years.

(b) A member may be reappointed to successive terms.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(d) In order to stagger the terms of membership, the members appointed or reappointed to represent the Utah Sheriff's Association on or after May 2, 2005, shall serve a term of two years, and all subsequent terms shall be four years.

(3) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-1104. General duties of the Search and Rescue Advisory Board.**

The duties of the Search and Rescue Advisory Board shall include:

(1) conducting a board meeting at least once per quarter;

(2) receiving applications for reimbursement of eligible expenses from county search and rescue operations by the end of the first quarter of each calendar year;

(3) determining the reimbursement to be provided from the Search and Rescue Financial Assistance Program to each applicant;
(4) standardizing the format and maintaining key search and rescue statistical data from each county within the state; and
(5) disbursing funds accrued in the Search and Rescue Financial Assistance Program, created under Section 53-2-107, to eligible applicants.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-1201. Title.**
This part is known as the "Facilitating Business Rapid Response to State Declared Disasters Act."

Enacted by Chapter 376, 2014 General Session

**53-2a-1202. Definitions.**
As used in this part:
(1) "Declared state disaster or emergency" means a declared disaster as defined in Section 53-2a-602.
(2) "Disaster- or emergency-related work" means repairing, renovating, installing, building, rendering services, or other business activities that relate to infrastructure that has been damaged, impaired, or destroyed by a declared state disaster or emergency.
(3) "Disaster period" means a period that begins within 10 days after the first day of a declared state disaster or emergency and that extends for a period of 60 calendar days after the end of the declared state disaster or emergency.
(4) "Infrastructure" means property and equipment owned or used by communications networks, electric generation systems, transmission and distribution systems, gas distribution systems, water pipelines, and related support facilities that serve multiple customers or citizens, including real and personal property, such as buildings, offices, power and communication lines and poles, pipes, structures, and equipment.
(5) "Out-of-state business" means a business entity that:
(a) has no presence in the state, other than any prior disaster- or emergency-related work, and conducts no business in the state, and whose services are requested by a registered business or by a state or local government for purposes of performing disaster- or emergency-related work in the state; and
(b) has no registration or tax filings or presence sufficient to require the collection or payment of a tax in the state prior to the declared state disaster or emergency.
(6) "Out-of-state employee" means an employee who does not work in the state, except for disaster- or emergency-related work during the disaster period.
(7) "Registered business" means a business entity that is currently registered to do business in the state prior to the declared state disaster or emergency.

Enacted by Chapter 376, 2014 General Session

**53-2a-1203. Business and employee status during disaster period.**

(1) Notwithstanding any other provision, an out-of-state business that conducts operations within the state for purposes of performing work or services related to a declared state disaster or emergency during the disaster period:

(a) is not considered to have established a level of presence that would require that business to be subject to any state licensing or registration requirements, provided that the out-of-state business is in substantial compliance with all applicable regulatory and licensing requirements in its state of domicile, including:

(i) unemployment insurance;

(ii) state or local occupational licensing fees;

(iii) public service commission regulation; or

(iv) state or local licensing or regulatory requirements; and

(b) is exempt from the registration requirements under Title 16, Corporations, Title 42, Names, and Title 48, Partnership; and

(c) shall, within a reasonable time after entry, upon the request of the Labor Commission or the Department of Insurance, confirm that it is in compliance with Subsections 34A-2-406(1)(a), (1)(b), and (2).

(2) Notwithstanding any other provision, an out-of-state employee who performs disaster- or emergency-related work specific to a declared state disaster or emergency during the disaster period is not subject to any state licensing or registration requirements provided that the out-of-state employee is in substantial compliance with all applicable regulatory and licensing requirements in the employee's state of residence or state of employment.

(3) (a) Income taxation related to an out-of-state employee or an out-of-state business is as provided in:

(i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; and

(ii) Title 59, Chapter 10, Individual Income Tax Act.

(b) Sales and use taxation during a disaster period is as provided in Title 59, Chapter 12, Sales and Use Tax Act.

(c) Any property brought into the state temporarily during the disaster period is not subject to any state or local ad valorem taxes under Title 59, Chapter 2, Property Tax Act.

Enacted by Chapter 376, 2014 General Session

**53-2a-1204. Business or employee activity after disaster period.**

Any out-of-state business or out-of-state employee that remains in the state after the disaster period will become subject to the state's normal standards for establishing presence or residency, or doing business in the state.

Enacted by Chapter 376, 2014 General Session

**53-2a-1205. Administration -- Notification and procedures.**

(1) Any out-of-state business that enters the state shall, within a reasonable time after entry, not to exceed 30 days, provide to the Division of Occupational and Professional Licensing a statement that it is in the state for purposes of responding to

the disaster or emergency, which statement shall include the business's:

(a) name;

(b) state of domicile;

(c) principal business address;

(d) federal tax identification number;

(e) date of entry;

(f) contact information; and

(g) evidence of compliance with the regulatory or licensing requirements in Section 53-2a-1203, such as a copy of applicable permits or licenses.

(2) Any affiliate of a registered business in the state and any out-of-state business that is registered as a public utility in another state and that is providing assistance under the terms of a utility multistate mutual aid agreement shall not be required to provide the information required in Subsection (1), unless requested by the Division of Occupational and Professional Licensing within a reasonable period of time.

(3) An out-of-state business or an out-of-state employee that remains in the state after the disaster period shall complete state and local registration, licensing, and filing requirements that establish the requisite business presence or residency in the state.

(4) The Division of Occupational and Professional Licensing shall:

(a) make rules necessary to implement Subsection (3);

(b) develop and provide forms or online processes; and

(c) maintain and make available an annual report of any designations made pursuant to this section.

Enacted by Chapter 376, 2014 General Session

**53-2b-101. Title.**

(1) This chapter is known as the "Interstate Local Emergency Response Act."

(2) This part is known as "General Provisions."

Enacted by Chapter 331, 2013 General Session
Amended by Chapter 331, 2013 General Session, (Coordination Clause)

**53-2b-102. Definitions.**

As used in this chapter:

(1) "Assisting political subdivision" means a political subdivision that provides emergency services to a political subdivision in another state in accordance with a local emergency response agreement between the political subdivisions.

(2) "Certification" includes any license, certificate, permit, document, or other evidence issued by a government entity that authorizes a person to engage in an activity, within the person's scope of practice, that requires a specific skill set, education, expertise, or other qualifications.

(3) "Emergency" means:

(a) a natural or man-made disaster, a riot, a civil disturbance, violence, criminal activity, a fire, a flood, or extreme weather;

(b) an injury, illness, or other medical condition that requires an expedited

response; or

(c) a circumstance that presents an imminent threat to life, property, or the public health, safety, or welfare.

(4) "Emergency responder" means a person employed by, under contract with, or acting as an official volunteer for a political subdivision of a state that provides emergency services, including any of the following:

(a) a law enforcement officer;

(b) a firefighter;

(c) a provider of medical services or first aid;

(d) an explosives expert;

(e) a person who provides hazardous materials containment or cleanup; or

(f) another provider of emergency services.

(5) "Emergency services" means services provided by a public entity in response to an emergency.

(6) "Interstate emergency response agreement" means an agreement described in Subsection 53-2b-202(1) between Utah and another state authorizing a political subdivision in Utah to enter into an agreement to provide emergency services to, and receive emergency services from, a political subdivision in the other state.

(7) "Local emergency response agreement" means an agreement described in Subsection 53-2b-202(2)(a) that is:

(a) between a political subdivision in Utah and a political subdivision in another state, providing for the provision of emergency services to, or the receipt of emergency services from, each other; and

(b) entered into under the provisions of this chapter.

(8) "Requesting political subdivision" means a political subdivision that requests emergency services from a political subdivision in another state in accordance with a local emergency response agreement between the political subdivisions.

Amended by Chapter 331, 2013 General Session, (Coordination Clause)
Enacted by Chapter 331, 2013 General Session

**53-2b-201. Title.**

This part is known as "Emergency Response Agreements."

Enacted by Chapter 331, 2013 General Session
Amended by Chapter 331, 2013 General Session, (Coordination Clause)

**53-2b-202. Interstate emergency response agreement -- Local emergency response agreement.**

(1) The governor may enter into an interstate emergency response agreement with another state, if the other state enacts a law substantially similar to this chapter, to permit and establish procedures and requirements relating to the sharing of emergency services between political subdivisions of the states under circumstances where the provisions of Title 53, Chapter 2a, Part 4, Emergency Management Assistance Compact, do not apply, including:

(a) when emergency responders in an assisting political subdivision may

respond to an emergency more easily, quickly, or at less cost than responders in a requesting political subdivision;

(b) when a requesting political subdivision desires emergency responders in an assisting political subdivision to provide additional resources or other assistance in response to an emergency in the requesting political subdivision; or

(c) when emergency responders in a requesting political subdivision are unable to respond, or unable to adequately respond, to an emergency in the requesting political subdivision.

(2) An emergency response agreement shall:

(a) permit a political subdivision in one state to enter into a local emergency response agreement with a political subdivision in another state to permit, and establish procedures and requirements relating to, the sharing of emergency services described in Subsection (1) if the agreement is consistent with the interstate emergency response agreement and the provisions of this chapter;

(b) describe the circumstances under which an assisting political subdivision may reject a request to provide resources to a requesting political subdivision;

(c) establish requirements relating to reimbursement of the assisting political subdivision by the requesting political subdivision for any loss, damage, costs, compensation of personnel, or other expenses incurred by the assisting political subdivision; and

(d) incorporate the provisions described in Part 3, Reciprocity, and Part 4, Miscellaneous Provisions.

Enacted by Chapter 331, 2013 General Session
Amended by Chapter 331, 2013 General Session, (Coordination Clause)

**53-2b-301. Title.**

This part is known as "Reciprocity."

Enacted by Chapter 331, 2013 General Session
Amended by Chapter 331, 2013 General Session, (Coordination Clause)

**53-2b-302. Reciprocal immunity -- Limitation on liability.**

(1) An officer, employee, or agent of an assisting political subdivision who provides assistance in responding to an emergency in Utah under an emergency response agreement:

(a) is protected from liability under the laws of Utah as if the officer, employee, or agent of the assisting political subdivision is an officer, employee, or agent of Utah; and

(b) is considered an agent of the requesting political subdivision for the purposes of tort liability and immunity.

(2) In addition to the protections described in Subsection (1), and except as provided in Subsection (3), an assisting political subdivision, and each officer, employee, or agent of the assisting political subdivision, who provides assistance in responding to an emergency in Utah under an emergency response agreement is not liable for an act or omission performed in good faith in providing the assistance,

including the maintenance or use of equipment or supplies.

(3) The additional liability protection described in Subsection (2) does not apply to misconduct that is willful, wanton, or reckless.

Amended by Chapter 331, 2013 General Session, (Coordination Clause)
Enacted by Chapter 331, 2013 General Session

**53-2b-303. Reciprocal authority.**

(1) An emergency responder from an assisting political subdivision outside of Utah who responds to an emergency in a requesting political subdivision inside of Utah has the same authority to act as an emergency responder of the same type in the requesting political subdivision.

(2) An emergency responder from an assisting political subdivision outside of Utah who responds to an emergency in a requesting political subdivision inside of Utah and who holds a certification that is valid in the assisting political subdivision or in the assisting political subdivision's state shall, during the emergency response, have the authority to act as if the emergency responder holds the same certification in the requesting political subdivision or in Utah, if the emergency responder's actions authorized by the certification are taken for the purpose of responding to an emergency in the requesting political subdivision.

Enacted by Chapter 331, 2013 General Session
Amended by Chapter 331, 2013 General Session, (Coordination Clause)

**53-2b-401. Title.**

This part is known as "Miscellaneous Provisions."

Enacted by Chapter 331, 2013 General Session
Amended by Chapter 331, 2013 General Session, (Coordination Clause)

**53-2b-402. Benefits in case of injury or death.**

An assisting political subdivision shall provide its officers who respond, under this chapter, to an emergency in a requesting political subdivision and who, during the response, are injured or die in the state of the requesting political subdivision with the same death benefits and compensation, including workers' compensation, that the officers would be entitled to if the emergency and response had occurred in the assisting political subdivision.

Amended by Chapter 331, 2013 General Session, (Coordination Clause)
Enacted by Chapter 331, 2013 General Session

**53-2b-403. Emergency Management Assistance Compact takes precedence.**

The provisions of Title 53, Chapter 2a, Part 4, Emergency Management Assistance Compact, supercede the provisions of this chapter for any period of time when a declared state of emergency is in effect, under the Emergency Management

Assistance Compact, with respect to a requesting political subdivision.

Enacted by Chapter 331, 2013 General Session
Amended by Chapter 331, 2013 General Session, (Coordination Clause)

**53-3-101. Short title.**
This chapter is known as the "Uniform Driver License Act."

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-102. Definitions.**
As used in this chapter:
(1) "Cancellation" means the termination by the division of a license issued through error or fraud or for which consent under Section 53-3-211 has been withdrawn.
(2) "Class D license" means the class of license issued to drive motor vehicles not defined as commercial motor vehicles or motorcycles under this chapter.
(3) "Commercial driver license" or "CDL" means a license:
(a) issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and
(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(i).
(4) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:
(i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as determined by federal regulation;
(ii) is designed to transport 16 or more passengers, including the driver; or
(iii) is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.
(b) The following vehicles are not considered a commercial motor vehicle for purposes of Part 4, Uniform Commercial Driver License Act:
(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;
(ii) vehicles controlled and driven by a farmer to transport agricultural products, farm machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation as a motor carrier for hire;
(iii) firefighting and emergency vehicles; and
(iv) recreational vehicles that are not used in commerce and are driven solely as family or personal conveyances for recreational purposes.

(5) "Conviction" means any of the following:

(a) an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

(b) an unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court;

(c) a plea of guilty or nolo contendere accepted by the court;

(d) the payment of a fine or court costs; or

(e) violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

(6) "Denial" or "denied" means the withdrawal of a driving privilege by the division to which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner's or Operator's Security, do not apply.

(7) "Director" means the division director appointed under Section 53-3-103.

(8) "Disqualification" means either:

(a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state of a person's privileges to drive a commercial motor vehicle;

(b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386, that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part 391; or

(c) the loss of qualification that automatically follows conviction of an offense listed in 49 C.F.R. Part 383.51.

(9) "Division" means the Driver License Division of the department created in Section 53-3-103.

(10) "Downgrade" means to obtain a lower license class than what was originally issued during an existing license cycle.

(11) "Drive" means:

(a) to operate or be in physical control of a motor vehicle upon a highway; and

(b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within the state.

(12) (a) "Driver" means any person who drives, or is in actual physical control of a motor vehicle in any location open to the general public for purposes of vehicular traffic.

(b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person who is required to hold a CDL under Part 4 or federal law.

(13) "Driving privilege card" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained without providing evidence of lawful presence in the United States.

(14) "Extension" means a renewal completed in a manner specified by the division.

(15) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(16) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public, as a matter of

right, for traffic.

(17) "Identification card" means a card issued under Part 8, Identification Card Act, to a person for identification purposes.

(18) "Indigent" means that a person's income falls below the federal poverty guideline issued annually by the U.S. Department of Health and Human Services in the Federal Register.

(19) "License" means the privilege to drive a motor vehicle.

(20) (a) "License certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle.

(b) "License certificate" evidence includes a:

(i) regular license certificate;

(ii) limited-term license certificate;

(iii) driving privilege card;

(iv) CDL license certificate;

(v) limited-term CDL license certificate;

(vi) temporary regular license certificate; and

(vii) temporary limited-term license certificate.

(21) "Limited-term commercial driver license" or "limited-term CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(ii).

(22) "Limited-term identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(ii).

(23) "Limited-term license certificate" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(B).

(24) "Motorboat" has the same meaning as provided under Section 73-18-2.

(25) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

(26) "Office of Recovery Services" means the Office of Recovery Services, created in Section 62A-11-102.

(27) (a) "Owner" means a person other than a lien holder having an interest in the property or title to a vehicle.

(b) "Owner" includes a person entitled to the use and possession of a vehicle subject to a security interest in another person but excludes a lessee under a lease not intended as security.

(28) "Regular identification card" means an identification card issued under this

chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(i).

(29) "Regular license certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle whose privilege was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(A).

(30) "Renewal" means to validate a license certificate so that it expires at a later date.

(31) "Reportable violation" means an offense required to be reported to the division as determined by the division and includes those offenses against which points are assessed under Section 53-3-221.

(32) (a) "Resident" means an individual who:

(i) has established a domicile in this state, as defined in Section 41-1a-202, or regardless of domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(ii) engages in a trade, profession, or occupation in this state, or who accepts employment in other than seasonal work in this state, and who does not commute into the state;

(iii) declares himself to be a resident of this state by obtaining a valid Utah driver license certificate or motor vehicle registration; or

(iv) declares himself a resident of this state to obtain privileges not ordinarily extended to nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees.

(b) "Resident" does not include any of the following:

(i) a member of the military, temporarily stationed in this state;

(ii) an out-of-state student, as classified by an institution of higher education, regardless of whether the student engages in any type of employment in this state;

(iii) a person domiciled in another state or country, who is temporarily assigned in this state, assigned by or representing an employer, religious or private organization, or a governmental entity; or

(iv) an immediate family member who resides with or a household member of a person listed in Subsections (32)(b)(i) through (iii).

(33) "Revocation" means the termination by action of the division of a licensee's privilege to drive a motor vehicle.

(34) (a) "School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students to and from home and school, or to and from school sponsored events.

(b) "School bus" does not include a bus used as a common carrier as defined in Section 59-12-102.

(35) "Suspension" means the temporary withdrawal by action of the division of a licensee's privilege to drive a motor vehicle.

(36) "Taxicab" means any class D motor vehicle transporting any number of passengers for hire and that is subject to state or federal regulation as a taxi.

Amended by Chapter 252, 2014 General Session

**53-3-103. Driver License Division -- Creation -- Director -- Appointment -- Term -- Compensation.**

(1) There is created within the department the Driver License Division.

(2) The division shall be administered by a director appointed by the commissioner with the approval of the governor.

(3) The director is the executive and administrative head of the division and shall be experienced in administration and possess additional qualifications as determined by the commissioner and as provided by law.

(4) The director acts under the supervision and control of the commissioner and may be removed from his position at the will of the commissioner.

(5) The director shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

Enacted by Chapter 234, 1993 General Session

**53-3-104. Division duties.**

The division shall:

(1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) for examining applicants for a license, as necessary for the safety and welfare of the traveling public;

(b) for acceptable documentation of an applicant's identity, Social Security number, Utah resident status, Utah residence address, proof of legal presence, proof of citizenship in the United States, honorable or general discharge from the United States military, and other proof or documentation required under this chapter;

(c) regarding the restrictions to be imposed on a person driving a motor vehicle with a temporary learner permit or learner permit;

(d) for exemptions from licensing requirements as authorized in this chapter; and

(e) establishing procedures for the storage and maintenance of applicant information provided in accordance with Section 53-3-205, 53-3-410, or 53-3-804;

(2) examine each applicant according to the class of license applied for;

(3) license motor vehicle drivers;

(4) file every application for a license received by it and shall maintain indices containing:

(a) all applications denied and the reason each was denied;

(b) all applications granted; and

(c) the name of every licensee whose license has been suspended, disqualified, or revoked by the division and the reasons for the action;

(5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with this chapter;

(6) file all accident reports and abstracts of court records of convictions received by it under state law;

(7) maintain a record of each licensee showing the licensee's convictions and the traffic accidents in which the licensee has been involved where a conviction has resulted;

(8) consider the record of a licensee upon an application for renewal of a license and at other appropriate times;

(9) search the license files, compile, and furnish a report on the driving record of any person licensed in the state in accordance with Section 53-3-109;

(10) develop and implement a record system as required by Section 41-6a-604;

(11) in accordance with Section 53A-13-208, establish:

(a) procedures and standards to certify teachers of driver education classes to administer knowledge and skills tests;

(b) minimal standards for the tests; and

(c) procedures to enable school districts to administer or process any tests for students to receive a class D operator's license;

(12) in accordance with Section 53-3-510, establish:

(a) procedures and standards to certify licensed instructors of commercial driver training school courses to administer the skills test;

(b) minimal standards for the test; and

(c) procedures to enable licensed commercial driver training schools to administer or process skills tests for students to receive a class D operator's license;

(13) provide administrative support to the Driver License Medical Advisory Board created in Section 53-3-303;

(14) upon request by the lieutenant governor, provide the lieutenant governor with a digital copy of the driver license or identification card signature of a person who is an applicant for voter registration under Section 20A-2-206; and

(15) in accordance with Section 53-3-407.1, establish:

(a) procedures and standards to license a commercial driver license third party tester or commercial driver license third party examiner to administer the commercial driver license skills tests;

(b) minimum standards for the commercial driver license skills test; and

(c) procedures to enable a licensed commercial driver license third party tester or commercial driver license third party examiner to administer a commercial driver license skills test for an applicant to receive a commercial driver license.

Amended by Chapter 85, 2014 General Session

**53-3-104.5. Legislative finding -- Prohibition on implementing REAL ID Act.**

(1) As used in this section, "REAL ID Act" means the REAL ID Act of 2005 enacted by the United States Congress as part of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief Act, Pub. L. No. 109-13.

(2) The Legislature finds that the United States Congress' enactment of the REAL ID Act into law:

(a) is inimical to the security and well-being of the people of this state;

(b) will cause unneeded expense and inconvenience to the people of this state; and

(c) was adopted in violation of the principles of federalism contained in the Tenth Amendment to the United States Constitution.

(3) (a) The state may not participate in the implementation of the REAL ID Act.

(b) The division:
(i) may not implement the provisions of the REAL ID Act; and
(ii) shall report to the governor any attempt by an agency or an agent of the United States Department of Homeland Security to secure the implementation of the REAL ID Act.
(4) This section does not preclude the division from complying with provisions of the REAL ID Act that are already:
(a) adopted by administrative rule; or
(b) authorized under this code.

Enacted by Chapter 253, 2010 General Session

**53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling, and identification cards.**

The following fees apply under this chapter:
(1) An original class D license application under Section 53-3-205 is $25.
(2) An original provisional license application for a class D license under Section 53-3-205 is $30.
(3) An original application for a motorcycle endorsement under Section 53-3-205 is $9.50.
(4) An original application for a taxicab endorsement under Section 53-3-205 is $7.
(5) A learner permit application under Section 53-3-210.5 is $15.
(6) A renewal of a class D license under Section 53-3-214 is $25 unless Subsection (10) applies.
(7) A renewal of a provisional license application for a class D license under Section 53-3-214 is $25.
(8) A renewal of a motorcycle endorsement under Section 53-3-214 is $9.50.
(9) A renewal of a taxicab endorsement under Section 53-3-214 is $7.
(10) A renewal of a class D license for a person 65 and older under Section 53-3-214 is $13.
(11) An extension of a class D license under Section 53-3-214 is $20 unless Subsection (15) applies.
(12) An extension of a provisional license application for a class D license under Section 53-3-214 is $20.
(13) An extension of a motorcycle endorsement under Section 53-3-214 is $9.50.
(14) An extension of a taxicab endorsement under Section 53-3-214 is $7.
(15) An extension of a class D license for a person 65 and older under Section 53-3-214 is $11.
(16) An original or renewal application for a commercial class A, B, or C license or an original or renewal of a provisional commercial class A or B license under Part 4, Uniform Commercial Driver License Act, is:
(a) $40 for the knowledge test; and
(b) $60 for the skills test.
(17) Each original CDL endorsement for passengers, hazardous material,

double or triple trailers, or tankers is $7.

(18) An original CDL endorsement for a school bus under Part 4, Uniform Commercial Driver License Act, is $7.

(19) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver License Act, is $7.

(20) (a) A retake of a CDL knowledge test provided for in Section 53-3-205 is $20.

(b) A retake of a CDL skills test provided for in Section 53-3-205 is $40.

(21) A retake of a CDL endorsement test provided for in Section 53-3-205 is $7.

(22) A duplicate class A, B, C, or D license certificate under Section 53-3-215 is $18.

(23) (a) A license reinstatement application under Section 53-3-205 is $30.

(b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or combination of alcohol and any drug-related offense is $35 in addition to the fee under Subsection (23)(a).

(24) (a) An administrative fee for license reinstatement after an alcohol, drug, or combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under Part 4, Uniform Commercial Driver License Act, is $230.

(b) This administrative fee is in addition to the fees under Subsection (23).

(25) (a) An administrative fee for providing the driving record of a driver under Section 53-3-104 or 53-3-420 is $6.

(b) The division may not charge for a report furnished under Section 53-3-104 to a municipal, county, state, or federal agency.

(26) A rescheduling fee under Section 53-3-205 or 53-3-407 is $25.

(27) (a) Except as provided under Subsections (27)(b) and (c), an identification card application under Section 53-3-808 is $18.

(b) An identification card application under Section 53-3-808 for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is $13.

(c) A fee may not be charged for an identification card application if the person applying:

(i) has not been issued a Utah driver license;

(ii) is indigent; and

(iii) is at least 18 years of age.

(28) An extension of a regular identification card under Subsection 53-3-807(5) for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is $13.

(29) An extension of a regular identification card under Subsection 53-3-807(6) is $18.

(30) In addition to any license application fees collected under this chapter, the division shall impose on individuals submitting fingerprints in accordance with Section 53-3-205.5 the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(31) An original mobility vehicle permit application under Section 41-6a-1118 is $25.

(32) A renewal of a mobility vehicle permit under Section 41-6a-1118 is $25.

(33) A duplicate mobility vehicle permit under Section 41-6a-1118 is $10.

Amended by Chapter 225, 2014 General Session
Amended by Chapter 252, 2014 General Session
Amended by Chapter 343, 2014 General Session

**53-3-106. Disposition of revenues under this chapter -- Restricted account created -- Uses as provided by appropriation -- Nonlapsing.**

(1) There is created within the Transportation Fund a restricted account known as the "Department of Public Safety Restricted Account."

(2) The account consists of money generated from the following revenue sources:

(a) all money received under this chapter;

(b) administrative fees received according to the fee schedule authorized under this chapter and Section 63J-1-504;

(c) beginning on January 1, 2013, money received in accordance with Section 41-1a-1201; and

(d) any appropriations made to the account by the Legislature.

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited in the account.

(4) The expenses of the department in carrying out this chapter shall be provided for by legislative appropriation from this account.

(5) The amount in excess of $45 of the fees collected under Subsection 53-3-105(24) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117, except that of the amount in excess of $45, $100 shall be deposited in the State Laboratory Drug Testing Account created in Section 26-1-34.

(6) All money received under Subsection 41-6a-1406(6)(b)(ii) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117.

(7) Beginning in fiscal year 2009-10, the Legislature shall appropriate $100,000 annually from the account to the state medical examiner appointed under Section 26-4-4 for use in carrying out duties related to highway crash deaths under Subsection 26-4-7(1).

(8) The division shall remit the fees collected under Subsection 53-3-105(30) to the Bureau of Criminal Identification to cover the costs for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(9) (a) Beginning on January 1, 2013, the Legislature shall appropriate all money received in the account under Section 41-1a-1201 to the Utah Highway Patrol Division for field operations.

(b) The Legislature may appropriate additional money from the account to the Utah Highway Patrol Division for law enforcement purposes.

(10) Appropriations to the department from the account are nonlapsing.

(11) The department shall report to the Department of Health, on or before December 31, the amount the department expects to collect under Subsection 53-3-105(24) in the next fiscal year.

Amended by Chapter 252, 2014 General Session
Amended by Chapter 343, 2014 General Session

**53-3-108. Authority to administer oaths.**

Officers and employees of the division designated by the director for the purpose of administering this chapter may administer oaths and acknowledge signatures and shall do so without fee.

Enacted by Chapter 216, 1999 General Session

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

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

(b) The division may only disclose personal identifying information:

(i) when the division determines it is in the interest of the public safety to disclose the information; and

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

(c) The division may disclose personal identifying information:

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

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

(iii) to a depository institution as defined in Section 7-1-103 for use in accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123.

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

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

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

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

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

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

(3) (a) Notwithstanding the provisions of Subsection (1)(b), the division or its designee may disclose portions of a driving record, in accordance with this Subsection (3), to an insurer as defined under Section 31A-1-301, or a designee of an insurer, for purposes of assessing driving risk on the insurer's current motor vehicle insurance policyholders.

(b) The disclosure under Subsection (3)(a) shall:

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

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

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

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

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

(ii) the frequency of the disclosures;

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

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

(4) The division may:

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

(b) prepare under the seal of the division and deliver upon request, a certified copy of any record of the division, and charge a fee under Section 63J-1-504 for each document authenticated; and

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

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

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

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

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

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

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

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

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

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

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

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

(8) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created or maintained by the division or

any information contained in a record created or maintained by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

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

Amended by Chapter 190, 2011 General Session
Amended by Chapter 243, 2011 General Session

**53-3-201. Short title.**

This part is known as the "Driver Licensing Act."

Enacted by Chapter 234, 1993 General Session

**53-3-202. Drivers must be licensed -- Taxicab endorsement -- Violation.**

(1) A person may not drive a motor vehicle on a highway in this state unless the person is:

(a) granted the privilege to operate a motor vehicle by being licensed as a driver by the division under this chapter;

(b) driving an official United States Government class D motor vehicle with a valid United States Government driver permit or license for that type of vehicle;

(c) driving a road roller, road machinery, or any farm tractor or implement of husbandry temporarily drawn, moved, or propelled on the highways;

(d) a nonresident who is at least 16 years of age and younger than 18 years of age who has in the nonresident's immediate possession a valid license certificate issued to the nonresident in the nonresident's home state or country and is driving in the class or classes identified on the home state license certificate, except those persons referred to in Part 6, Drivers' License Compact, of this chapter;

(e) a nonresident who is at least 18 years of age and who has in the nonresident's immediate possession a valid license certificate issued to the nonresident in the nonresident's home state or country if driving in the class or classes identified on the home state license certificate, except those persons referred to in Part 6, Drivers' License Compact, of this chapter;

(f) driving under a learner permit in accordance with Section 53-3-210.5;

(g) driving with a temporary license certificate issued in accordance with Section 53-3-207; or

(h) exempt under Title 41, Chapter 22, Off-Highway Vehicles.

(2) A person may not drive or, while within the passenger compartment of a motor vehicle, exercise any degree or form of physical control of a motor vehicle being towed by a motor vehicle upon a highway unless the person:

(a) holds a valid license issued under this chapter for the type or class of motor vehicle being towed; or

(b) is exempted under either Subsection (1)(b) or (1)(c).

(3) A person may not drive a motor vehicle as a taxicab on a highway of this state unless the person has a taxicab endorsement issued by the division on his license

certificate.

(4) (a) Except as provided in Subsections (4)(b) and (c), a person may not operate:

(i) a motorcycle unless the person has a valid class D driver license and a motorcycle endorsement issued under this chapter;

(ii) a street legal all-terrain vehicle unless the person has a valid class D driver license; or

(iii) a motor-driven cycle unless the person has a valid class D driver license and a motorcycle endorsement issued under this chapter.

(b) A person operating a moped, as defined in Section 41-6a-102, or an electric assisted bicycle, as defined in Section 41-6a-102, is not required to have a motorcycle endorsement issued under this chapter.

(c) A person is not required to have a valid class D driver license if the person is:

(i) operating a motor assisted scooter, as defined in Section 41-6a-102, in accordance with Section 41-6a-1115; or

(ii) operating an electric personal assistive mobility device, as defined in Section 41-6a-102, in accordance with Section 41-6a-1116.

(5) A person who violates this section is guilty of a class C misdemeanor.

Amended by Chapter 253, 2009 General Session

**53-3-203. Authorizing or permitting driving in violation of chapter -- Renting of motor vehicles -- License requirements -- Employees must be licensed -- Violations.**

(1) A person may not authorize or knowingly permit a motor vehicle owned by him or under his control to be driven by a person in violation of this chapter.

(2) (a) A person may not rent a motor vehicle to another person unless the person who will be the driver is licensed in this state, or in the case of a nonresident, licensed under the laws of the state or country of his residence.

(b) A person may not rent a motor vehicle to another person until he has inspected the license certificate of the person who will be the driver and verified the signature on the license certificate by comparison with the signature of the person who will be the driver written in his presence.

(c) A person renting a motor vehicle to another shall keep a record of the:

(i) registration number of the rented motor vehicle;

(ii) name and address of the person to whom the motor vehicle is rented;

(iii) number of the license certificate of the renter; and

(iv) date and place the license certificate was issued.

(d) The record is open to inspection by any peace officer or officer or employee of the division.

(3) A person may not employ a person to drive a motor vehicle who is not licensed as required under this chapter.

(4) A person who violates Subsection (1), (2)(a), or (3) is guilty of a class C misdemeanor.

Amended by Chapter 51, 1997 General Session

**53-3-204. Persons who may not be licensed.**

(1) (a) The division may not license a person who:

(i) is younger than 16 years of age;

(ii) if the person is 18 years of age or younger, has not completed a course in driver training approved by the commissioner;

(iii) if the person is 19 years of age or older has not completed:

(A) a course in driver training approved by the commissioner; or

(B) the requirements under Subsection 53-3-210.5(6)(c);

(iv) if the person is a minor as defined in Section 53-3-211, has not completed the driving requirement under Section 53-3-211;

(v) is not a resident of the state, unless the person is issued a temporary CDL under Subsection 53-3-407(2)(b); or

(vi) if the person is 17 years of age or younger, has not held a learner permit issued under Section 53-3-210.5 or an equivalent by another state or branch of the United States Armed Forces for six months.

(b) Subsections (1)(a)(i), (ii), (iii), (iv), and (vi) do not apply to a person:

(i) who has been licensed before July 1, 1967; or

(ii) who is 16 years of age or older making application for a license who has been licensed in another state or country.

(2) The division may not issue a license certificate to a person:

(a) whose license has been suspended, denied, cancelled, or disqualified during the period of suspension, denial, cancellation, or disqualification;

(b) whose privilege has been revoked, except as provided in Section 53-3-225;

(c) who has previously been adjudged mentally incompetent and who has not at the time of application been restored to competency as provided by law;

(d) who is required by this chapter to take an examination unless the person successfully passes the examination;

(e) whose driving privileges have been denied or suspended under:

(i) Section 78A-6-606 by an order of the juvenile court; or

(ii) Section 53-3-231; or

(f) beginning on or after July 1, 2012, who holds an unexpired Utah identification card issued under Part 8, Identification Card Act, unless:

(i) the Utah identification card is canceled; and

(ii) if the Utah identification card is in the person's possession, the Utah identification card is surrendered to the division.

(3) (a) Except as provided in Subsection (3)(c), the division may not grant a motorcycle endorsement to a person who:

(i) has not been granted an original or provisional class D license, a CDL, or an out-of-state equivalent to an original or provisional class D license or a CDL; and

(ii) if the person is under 19 years of age, has not held a motorcycle learner permit for two months unless Subsection (3)(b) applies.

(b) The division may waive the two month motorcycle learner permit holding period requirement under Subsection (3)(a)(ii) if the person proves to the satisfaction of the division that the person has completed a motorcycle rider education program that meets the requirements under Section 53-3-903.

(c) The division may grant a motorcycle endorsement to a person under 19

years of age who has not held a motorcycle learner permit for two months if the person was issued a motorcycle endorsement prior to July 1, 2008.

(4) The division may grant a class D license to a person whose commercial license is disqualified under Part 4, Uniform Commercial Driver License Act, if the person is not otherwise sanctioned under this chapter.

Amended by Chapter 58, 2014 General Session

**53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving record transferred from other states -- Reinstatement -- Fee required -- License agreement.**

(1) An application for any original license, provisional license, or endorsement shall be:

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and the skills tests for a class D license within six months of the date of the application;

(b) a learner permit if needed pending completion of the application and testing process; and

(c) an original class D license and license certificate after all tests are passed and requirements are completed.

(3) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months of the date of the application;

(b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(4) An application and fees for a commercial class A, B, or C license entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application;

(b) a commercial driver instruction permit if needed after the knowledge test is passed; and

(c) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

(5) An application and fee for a CDL endorsement entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application; and

(b) a CDL endorsement when all tests are passed.

(6) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (4) or (5), each test may be taken two additional times within the six months for the fee provided in

Section 53-3-105.

(7) (a) Except as provided under Subsections (7)(f), (g), and (h), an original license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(b) Except as provided under Subsections (7)(f), (g), and (h), a renewal or an extension to a license expires on the birth date of the licensee in the fifth year following the expiration date of the license certificate renewed or extended.

(c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e) (i) A regular license certificate and any endorsement to the regular license certificate held by a person described in Subsection (7)(e)(ii), which expires during the time period the person is stationed outside of the state, is valid until 90 days after the person's orders have been terminated, the person has been discharged, or the person's assignment has been changed or terminated, unless:

(A) the license is suspended, disqualified, denied, or has been cancelled or revoked by the division; or

(B) the licensee updates the information or photograph on the license certificate.

(ii) The provisions in Subsection (7)(e)(i) apply to a person:

(A) ordered to active duty and stationed outside of Utah in any of the armed forces of the United States;

(B) who is an immediate family member or dependent of a person described in Subsection (7)(e)(ii)(A) and is residing outside of Utah;

(C) who is a civilian employee of the United States State Department or United States Department of Defense and is stationed outside of the United States; or

(D) who is an immediate family member or dependent of a person described in Subsection (7)(e)(ii)(C) and is residing outside of the United States.

(f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a renewal to a limited-term license certificate expires:

(A) on the expiration date of the period of time of the individual's authorized stay in the United States or on the date provided under this Subsection (7), whichever is sooner; or

(B) on the date of issuance in the first year following the year that the limited-term license certificate was issued if there is no definite end to the individual's period of authorized stay.

(ii) A limited-term license certificate or a renewal to a limited-term license certificate issued to an approved asylee or a refugee expires on the birth date of the applicant in the fourth year following the year that the limited-term license certificate was issued.

(g) A driving privilege card issued or renewed under Section 53-3-207 expires on the birth date of the applicant in the first year following the year that the driving privilege card was issued or renewed.

(h) An original license or a renewal to an original license expires on the birth date of the applicant in the first year following the year that the license was issued if the applicant is required to register as a sex offender in accordance with Title 77, Chapter

41, Sex and Kidnap Offender Registry.

(8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative Procedures Act, for requests for agency action, each applicant shall:

(i) provide:

(A) the applicant's full legal name;

(B) the applicant's birth date;

(C) the applicant's gender;

(D) (I) documentary evidence of the applicant's valid Social Security number;

(II) written proof that the applicant is ineligible to receive a Social Security number;

(III) the applicant's temporary identification number (ITIN) issued by the Internal Revenue Service for a person who:

(Aa) does not qualify for a Social Security number; and

(Bb) is applying for a driving privilege card; or

(IV) other documentary evidence approved by the division;

(E) the applicant's Utah residence address as documented by a form or forms acceptable under rules made by the division under Section 53-3-104, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b); and

(F) fingerprints and a photograph in accordance with Section 53-3-205.5 if the person is applying for a driving privilege card;

(ii) provide evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(A) that a person is:

(I) a United States citizen;

(II) a United States national; or

(III) a legal permanent resident alien; or

(B) of the applicant's:

(I) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(II) pending or approved application for asylum in the United States;

(III) admission into the United States as a refugee;

(IV) pending or approved application for temporary protected status in the United States;

(V) approved deferred action status;

(VI) pending application for adjustment of status to legal permanent resident or conditional resident; or

(VII) conditional permanent resident alien status;

(iii) provide a description of the applicant;

(iv) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(v) state whether the applicant has ever had any license suspended, cancelled, revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had any license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(vi) state whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection

(15);

(vii) state whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(viii) state whether the applicant is a veteran of the United States military, provide verification that the applicant was granted an honorable or general discharge from the United States Armed Forces, and state whether the applicant does or does not authorize sharing the information with the state Department of Veterans' and Military Affairs;

(ix) provide all other information the division requires; and

(x) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) Each applicant shall have a Utah residence address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

(c) Each applicant shall provide evidence of lawful presence in the United States in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

(d) The division shall maintain on its computerized records an applicant's:

(i) (A) Social Security number;

(B) temporary identification number (ITIN); or

(C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

(ii) indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(9) The division shall require proof of every applicant's name, birthdate, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a higher class than what the applicant originally was issued:

(i) the license application shall be treated as an original application; and

(ii) license and endorsement fees shall be assessed under Section 53-3-105.

(b) An applicant that receives a downgraded license in a lower license class during an existing license cycle that has not expired:

(i) may be issued a duplicate license with a lower license classification for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(22) if a duplicate license is issued under Subsection (10)(b)(i).

(c) An applicant who has received a downgraded license in a lower license class under Subsection (10)(b):

(i) may, when eligible, receive a duplicate license in the highest class previously issued during a license cycle that has not expired for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(22) if a

duplicate license is issued under Subsection (10)(c)(i).

(11) (a) When an application is received from a person previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(12) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license shall be accompanied by the additional fee or fees specified in Section 53-3-105.

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

(14) A person who applies for an original license or renewal of a license agrees that the person's license is subject to any suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(15) (a) The indication of intent under Subsection (8)(a)(vi) shall be authenticated by the licensee in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-102, the names and addresses of all persons who under Subsection (8)(a)(vi) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans' and Military Affairs the names and addresses of all persons who indicate their status as a veteran under Subsection (8)(a)(viii).

(17) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(18) A person who knowingly fails to provide the information required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

(19) (a) Until December 1, 2014, a person born on or after December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2014, a person born on or after December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah

identification card as required under this Subsection (19), the division shall cancel the Utah identification card on December 1, 2014.

(20) (a) Until December 1, 2017, a person born prior to December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2017, a person born prior to December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (20), the division shall cancel the Utah identification card on December 1, 2017.

(21) (a) A person who applies for an original motorcycle endorsement to a regular license certificate is exempt from the requirement to pass the knowledge and skills test to be eligible for the motorcycle endorsement if the person:

(i) is a resident of the state of Utah;

(ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed forces of the United States; or

(B) is an immediate family member or dependent of a person described in Subsection (21)(a)(ii)(A) and is residing outside of Utah;

(iii) has a digitized driver license photo on file with the division;

(iv) provides proof to the division of the successful completion of a certified Motorcycle Safety Foundation rider training course; and

(v) provides the necessary information and documentary evidence required under Subsection (8).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(i) establishing the procedures for a person to obtain a motorcycle endorsement under this Subsection (21); and

(ii) identifying the applicable restrictions for a motorcycle endorsement issued under this Subsection (21).

Amended by Chapter 85, 2014 General Session

**53-3-205.5. Fingerprint and photograph submission required for driving privilege card applicants and cardholders.**

(1) (a) Every applicant for a driving privilege card shall submit fingerprints and a photograph in a sealed envelope provided by the Bureau of Criminal Identification or a law enforcement agency with the application to the division.

(b) A person that renews a driving privilege card shall submit fingerprints and a photograph in a sealed envelope provided by the Bureau of Criminal Identification or a law enforcement agency to the division if the person has not previously submitted fingerprints and a photograph to the division.

(c) The fingerprinting and photograph submission required under this

Subsection (1) shall be conducted by:

(i) the Bureau of Criminal Identification; or

(ii) a law enforcement agency that has the capability of handling fingerprint and photograph submissions.

(2) The division shall submit fingerprints for each person described in Subsection (1) to the Bureau of Criminal Identification established in Section 53-10-201.

(3) The Bureau of Criminal Identification shall:

(a) check the fingerprints submitted under Subsection (1) against the applicable state and regional criminal records databases; and

(b) notify:

(i) the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security if the person has a felony in the person's criminal history record; or

(ii) the law enforcement agency that is directed to execute a warrant of arrest if an outstanding warrant of arrest has been issued against the person.

(4) (a) The Bureau of Criminal Identification shall maintain a separate file of fingerprints submitted under Subsection (1) and notify the following persons when a new entry is made in the applicable state and regional database against a person whose fingerprints are held in the file:

(i) the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security if the person is involved in an arrest under state law involving a felony; or

(ii) the law enforcement agency that is directed to execute a warrant of arrest if an outstanding warrant of arrest is issued against the person.

(b) Upon request of the agency described in Subsection (4)(a)(i), the Bureau of Criminal Identification shall inform the agency whether a person whose arrest was reported under Subsection (4)(a)(i) was subsequently convicted of the charge for which the person was arrested.

(5) In addition to any fees imposed under this chapter, the division shall:

(a) impose on individuals submitting fingerprints in accordance with this section the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification provides under this section; and

(b) remit the fees collected under Subsection (5)(a) to the Bureau of Criminal Identification.

Enacted by Chapter 428, 2011 General Session

**53-3-205.6. Emergency contact database.**

(1) (a) The division shall establish a database of the emergency contacts of a person who holds a license certificate, learner permit, identification card, or any other type of license or permit issued under this chapter.

(b) Information in the database created under this section may only be accessed by:

(i) employees of the division;

(ii) law enforcement officers employed by a law enforcement agency; and

(iii) employees or authorized agents of a law enforcement agency.

(c) A law enforcement officer may share information contained in the emergency contact database with other public safety workers on the scene of a motor vehicle accident or other emergency situation, as needed to conduct official law enforcement duties.

(2) A person holding a license certificate, learner permit, identification card, or any other type of license or permit issued under this chapter may provide the division, in a manner specified by the division, the name, address, telephone number, and relationship to the holder of no more than two emergency contact persons whom the holder wishes to be contacted by a law enforcement officer if the holder:

(a) is involved in a motor vehicle accident or other emergency situation; and

(b) is unable to communicate with the contact person or persons.

(3) The information contained in the database created under this section:

(a) shall only be used for the purposes described in this section; and

(b) may not be used for criminal investigation purposes.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing the procedures to implement this section including:

(a) specifying the method for a license certificate, instruction permit, or identification card holder to provide the division with emergency contact information;

(b) specifying the method for a license certificate, learner permit, or identification card holder to change the emergency contact information; and

(c) other rules required for the implementation of the database or its operation that the division determines necessary to implement the provisions of this section.

(5) (a) If a person involved in a motor vehicle accident or other emergency situation is unable to communicate with the contact person or persons specified in the database, a law enforcement officer shall make a good faith effort to notify the contact person or persons of the situation.

(b) A law enforcement officer or a law enforcement agency that employs a law enforcement officer may not incur any liability if the law enforcement officer is not able to make contact with a designated emergency contact person.

(c) Except for willful or wanton misconduct, a law enforcement officer or a law enforcement agency that employs a law enforcement officer may not incur any liability relating to the reporting or use of the database during a motor vehicle accident or other emergency situation.

(6) The division is not liable for any damages, costs, or expenses arising or resulting from any inaccurate or incomplete data or system unavailability.

Enacted by Chapter 252, 2012 General Session

**53-3-206. Examination of applicant's physical and mental fitness to drive a motor vehicle.**

(1) The division shall examine every applicant for a license, including a test of the applicant's:

(a) eyesight either:

(i) by the division; or

(ii) by allowing the applicant to furnish to the division a statement from a

physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(b) ability to read and understand highway signs regulating, warning, and directing traffic;

(c) ability to read and understand simple English used in highway traffic and directional signs;

(d) knowledge of the state traffic laws;

(e) other physical and mental abilities the division finds necessary to determine the applicant's fitness to drive a motor vehicle safely on the highways; and

(f) ability to exercise ordinary and responsible control driving a motor vehicle, as determined by actual demonstration or other indicator.

(2) (a) Notwithstanding the provisions of Subsection (1) or any other provision of law, the division shall allow a refugee or an approved asylee to take an examination of the person's knowledge of the state traffic laws in the person's native language the first time the person applies for a limited-term license certificate.

(b) Upon renewal of a refugee's or approved asylee's limited-term license certificate for a refugee or approved asylee that has taken the knowledge exam in the person's native language under Subsection (2)(a), the division shall re-examine the person's knowledge of the state traffic laws in English.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing the procedures and requirements for a refugee or an approved asylee to take an examination of the person's knowledge of the state traffic laws in the person's native language.

(3) The division shall determine whether any facts exist that would bar granting a license under Section 53-3-204.

(4) The division shall examine each applicant according to the class of license applied for.

(5) An applicant for a CDL shall meet all additional requirements of Part 4 of this chapter.

Amended by Chapter 415, 2011 General Session

**53-3-207. License certificates or driving privilege cards issued to drivers by class of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.**

(1) As used in this section:

(a) "Driving privilege" means the privilege granted under this chapter to drive a motor vehicle.

(b) "Governmental entity" means the state and its political subdivisions as defined in this Subsection (1).

(c) "Political subdivision" means any county, city, town, school district, public transit district, community development and renewal agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(d) "State" means this state, and includes any office, department, agency, authority, commission, board, institution, hospital, college, university, children's justice center, or other instrumentality of the state.

(2) (a) The division shall issue to every person privileged to drive a motor vehicle, a regular license certificate, a limited-term license certificate, or a driving privilege card indicating the type or class of motor vehicle the person may drive.

(b) A person may not drive a class of motor vehicle unless granted the privilege in that class.

(3) (a) Every regular license certificate, limited-term license certificate, or driving privilege card shall bear:

(i) the distinguishing number assigned to the person by the division;

(ii) the name, birth date, and Utah residence address of the person;

(iii) a brief description of the person for the purpose of identification;

(iv) any restrictions imposed on the license under Section 53-3-208;

(v) a photograph of the person;

(vi) a photograph or other facsimile of the person's signature;

(vii) an indication whether the person intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, unless the driving privilege is extended under Subsection 53-3-214(3); and

(viii) except as provided in Subsection (3)(b), if the person states that the person is a veteran of the United States military on the application for a driver license in accordance with Section 53-3-205 and provides verification that the person was granted an honorable or general discharge from the United States Armed Forces, an indication that the person is a United States military veteran for a regular license certificate or limited-term license certificate issued on or after July 1, 2011.

(b) A regular license certificate or limited-term license certificate issued to any person younger than 21 years on a portrait-style format as required in Subsection (5)(b)(i) is not required to include an indication that the person is a United States military veteran under Subsection (3)(a)(viii).

(c) A new license certificate issued by the division may not bear the person's Social Security number.

(d) (i) The regular license certificate, limited-term license certificate, or driving privilege card shall be of an impervious material, resistant to wear, damage, and alteration.

(ii) Except as provided under Subsection (4)(b), the size, form, and color of the regular license certificate, limited-term license certificate, or driving privilege card shall be as prescribed by the commissioner.

(iii) The commissioner may also prescribe the issuance of a special type of limited regular license certificate, limited-term license certificate, or driving privilege card under Subsection 53-3-220(4).

(4) (a) (i) The division, upon determining after an examination that an applicant is mentally and physically qualified to be granted a driving privilege, may issue to an applicant a receipt for the fee if the applicant is eligible for a regular license certificate or limited-term license certificate.

(ii) (A) The division shall issue a temporary regular license certificate or temporary limited-term license certificate allowing the person to drive a motor vehicle

while the division is completing its investigation to determine whether the person is entitled to be granted a driving privilege.

(B) A temporary regular license certificate or a temporary limited-term license certificate issued under this Subsection (4) shall be recognized and have the same rights and privileges as a regular license certificate or a limited-term license certificate.

(b) The temporary regular license certificate or temporary limited-term license certificate shall be in the person's immediate possession while driving a motor vehicle, and it is invalid when the person's regular license certificate or limited-term license certificate has been issued or when, for good cause, the privilege has been refused.

(c) The division shall indicate on the temporary regular license certificate or temporary limited-term license certificate a date after which it is not valid as a temporary license.

(d) (i) Except as provided in Subsection (4)(d)(ii), the division may not issue a temporary driving privilege card or other temporary permit to an applicant for a driving privilege card.

(ii) The division may issue a learner permit issued in accordance with Section 53-3-210.5 to an applicant for a driving privilege card.

(5) (a) The division shall distinguish learner permits, temporary permits, regular license certificates, limited-term license certificates, and driving privilege cards issued to any person younger than 21 years of age by use of plainly printed information or the use of a color or other means not used for other regular license certificates, limited-term license certificates, or driving privilege cards.

(b) The division shall distinguish a regular license certificate, limited-term license certificate, or driving privilege card issued to any person:

(i) younger than 21 years of age by use of a portrait-style format not used for other regular license certificates, limited-term license certificates, or driving privilege cards and by plainly printing the date the regular license certificate, limited-term license certificate, or driving privilege card holder is 21 years of age, which is the legal age for purchasing an alcoholic beverage or alcoholic product under Section 32B-4-403; and

(ii) younger than 19 years of age, by plainly printing the date the regular license certificate, limited-term license certificate, or driving privilege card holder is 19 years of age, which is the legal age for purchasing tobacco products under Section 76-10-104.

(6) The division shall distinguish a limited-term license certificate by clearly indicating on the document:

(a) that it is temporary; and

(b) its expiration date.

(7) (a) The division shall only issue a driving privilege card to a person whose privilege was obtained without providing evidence of lawful presence in the United States as required under Subsection 53-3-205(8).

(b) The division shall distinguish a driving privilege card from a license certificate by:

(i) use of a format, color, font, or other means; and

(ii) clearly displaying on the front of the driving privilege card a phrase substantially similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION".

(8) The provisions of Subsection (5)(b) do not apply to a learner permit,

temporary permit, temporary regular license certificate, temporary limited-term license certificate, or any other temporary permit.

(9) The division shall issue temporary license certificates of the same nature, except as to duration, as the license certificates that they temporarily replace, as are necessary to implement applicable provisions of this section and Section 53-3-223.

(10) (a) A governmental entity may not accept a driving privilege card as proof of personal identification.

(b) A driving privilege card may not be used as a document providing proof of a person's age for any government required purpose.

(11) A person who violates Subsection (2)(b) is guilty of a class C misdemeanor.

(12) Unless otherwise provided, the provisions, requirements, classes, endorsements, fees, restrictions, and sanctions under this code apply to a:

(a) driving privilege in the same way as a license or limited-term license issued under this chapter; and

(b) limited-term license certificate or driving privilege card in the same way as a regular license certificate issued under this chapter.

Amended by Chapter 85, 2014 General Session

**53-3-208. Restrictions.**

(1) (a) When granting a license, the division may for good cause impose restrictions, suitable to the licensee's driving ability, for the type of motor vehicle or special mechanical control devices required on a motor vehicle that the licensee may drive.

(b) The division may impose other restrictions on the licensee as it determines appropriate to assure safe driving of a motor vehicle by the licensee.

(2) The division may either grant a special restricted license or may set forth restrictions upon the regular license certificate.

(3) (a) The division may suspend or revoke any license upon receiving satisfactory evidence of any violation of the restrictions imposed on the license.

(b) Each licensee is entitled to a hearing for a suspension or revocation under this chapter.

(4) It is a class C misdemeanor for a person to drive a motor vehicle in violation of the restrictions imposed on his license under this section.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-209. Provisional licenses only for persons under 21 -- Separate point system -- Denial and suspension procedures.**

(1) The division may only grant a provisional license to a person younger than 21 years of age.

(2) (a) The division shall make rules for the establishment and administration of a separate point system for persons granted provisional licenses to facilitate counseling, penalization, or both earlier than for persons 21 years of age or older.

(b) The rules shall establish point thresholds at which each of the following actions are taken:

(i) a warning letter;
(ii) a request to appear for a hearing;
(iii) a denial of the driving privilege for first or second actions where the point total established under Section 53-3-221 does not exceed the point threshold under which a person 21 years or older may be suspended; and
(iv) a suspension of the driving privilege.
(c) The rules shall require:
(i) an extension of the denial or suspension period for further violations within the three-year period; and
(ii) denial or suspension of the driving privilege for failure to appear for a hearing required under this section.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-210.5. Learner permit.**

(1) Beginning on August 1, 2006, the division, upon receiving an application for a learner permit, may issue a learner permit effective for one year to an applicant who is at least 15 years of age.
(2) (a) The learner permit entitles an applicant that is 18 years of age or older to operate a class D motor vehicle only if:
(i) a person 21 years of age or older who is a licensed driver is occupying a seat beside the applicant; and
(ii) the applicant has the learner permit in the applicant's immediate possession while operating the motor vehicle.
(b) The learner permit entitles an applicant that is younger than 18 years of age to operate a class D motor vehicle only if:
(i) (A) an approved driving instructor is occupying a seat beside the applicant;
(B) the applicant's parent or legal guardian, who must be a licensed driver, is occupying a seat beside the applicant; or
(C) a responsible adult who has signed for the applicant under Section 53-3-211 and who must be a licensed driver, is occupying a seat beside the applicant; and
(ii) the applicant has the learner permit in the applicant's immediate possession while operating the motor vehicle.
(3) The division shall issue a learner permit to an applicant who:
(a) is at least 15 years of age;
(b) has passed the knowledge test required by the division;
(c) has passed the physical and mental fitness tests; and
(d) has submitted a nonrefundable fee for a learner permit under Section 53-3-105.
(4) (a) The division shall supply the learner permit form.
(b) The form under Subsection (4)(a) shall include:
(i) the applicant's full name, date of birth, sex, Utah residence address, height, weight, and eye color;
(ii) the date of issuance and expiration of the permit; and
(iii) the conditions and restrictions contained in this section for operating a class D motor vehicle.

(5) An application and fee for a learner permit entitle the applicant to:

(a) not more than three attempts to pass the knowledge test for a class D license within one year; and

(b) a learner permit after the knowledge test is passed.

(6) (a) If an applicant has been issued a learner permit under this section, the applicant may be issued an original or provisional class D license from the division upon:

(i) completing a driver education course in a:

(A) commercial driver training school licensed under Part 5, Commercial Driver Training Schools Act; or

(B) driver education program approved by the State Board of Education or the division;

(ii) passing the skills test approved by the division;

(iii) reaching 16 years of age; and

(iv) paying the nonrefundable fee for an original or provisional class D license application under Section 53-3-105.

(b) In addition to the requirements under Subsection (6)(a), an applicant who is 17 years of age or younger is required to hold a learner permit for six months before applying for a provisional class D license.

(c) An applicant is exempt from the requirement under Subsection (6)(a)(i) if the applicant:

(i) is 19 years of age or older;

(ii) holds a learner permit for three months before applying for an original class D license; and

(iii) certifies that the applicant, under the authority of a permit issued under this chapter, has completed at least 40 hours of driving a motor vehicle, of which at least 10 hours were completed during night hours after sunset.

Amended by Chapter 176, 2012 General Session

**53-3-210.6. Motorcycle learner permit.**

(1) The division, upon receiving an application for a motorcycle learner permit, may issue a motorcycle learner permit effective for six months to an applicant who:

(a) holds an original or provisional class D license, a CDL, or an out-of-state equivalent of an original or provisional class D license or a CDL; and

(b) has passed the motorcycle knowledge test.

(2) A motorcycle learner permit entitles an applicant to operate a motorcycle on a highway subject to the restrictions in Subsection (3).

(3) (a) For the first two months from the date a motorcycle learner permit is issued, the operator of a motorcycle holding the motorcycle learner permit may not operate a motorcycle:

(i) on a highway with a posted speed limit of more than 60 miles per hour;

(ii) with any passengers; or

(iii) during the nighttime hours after 10 p.m. and before 6 a.m.

(b) For the third through sixth months from the date a motorcycle learner permit is issued, the operator of a motorcycle holding the motorcycle learner permit may

operate a motorcycle without any restrictions imposed under this Subsection (3).

(c) It is an affirmative defense to a charge that a person who has been issued a motorcycle learner permit is operating a motorcycle in violation of the restrictions under Subsection (3)(a) if the person is operating the motorcycle:

(i) for the operator's employment, including the trip to and from the operator's residence and the operator's employment;

(ii) on assignment of a rancher or farmer and the operator is engaged in an agricultural operation; or

(iii) in an emergency.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules governing the issuance of a motorcycle learner permit and establishing the proof requirements for an applicant to demonstrate that the applicant has completed a motorcycle rider education program.

Enacted by Chapter 304, 2008 General Session

**53-3-211. Application of minors -- Liability of person signing application -- Cancellation of cosigning adult's liability -- Behind-the-wheel driving certification.**

(1) As used in this section, "minor" means any person younger than 18 years of age who is not married or has not been emancipated by adjudication.

(2) (a) The application of a minor for a learner permit or provisional license shall be signed by the parent or guardian of the applicant.

(b) If the minor applicant does not have a parent or guardian or is in the legal custody of the Division of Child and Family Services, then a parent or responsible adult who is willing to assume the obligation imposed under this chapter may sign the application.

(3) (a) Except as provided in Subsection (4), the liability of a minor for civil compensatory damages caused when operating a motor vehicle upon a highway is imputed to the person who has signed the application of the minor under Subsection (2).

(b) The person who has signed the application under Subsection (2) is jointly and severally liable with the minor as provided in Subsections (3)(a) and (c).

(c) The liability imposed under Subsections (3)(a) and (b) is limited to the policy minimum limits established in Section 31A-22-304.

(d) The liability provisions in this Subsection (3) are in addition to the liability provisions in Section 53-3-212.

(4) (a) If owner's or operator's security covering the minor's operation of the motor vehicle is in effect in amounts as required under Section 31A-22-304, the person who signed the minor's application under Subsection (2) is not subject to the liability imposed under Subsection (3).

(b) Notwithstanding the requirement under Subsection (3), if a foster parent signs an application under Subsection (2) for a minor who is in the legal custody of the Division of Child and Family Services and who resides with the foster parent, the foster parent's liability may not exceed the greater of:

(i) minimum liability insurance policy limits established under Section 31A-22-304; or

(ii) the policy limits of the foster parent's liability insurance policy issued in accordance with Section 31A-22-302 that were in effect at the time damages were caused by the minor's operation of a motor vehicle.

(5) (a) A person who has signed the application of a minor under Subsection (2) may file with the division a verified written request that the permit or license of the minor be canceled.

(b) The division shall then cancel the permit or license of the minor, and the person who signed the application of the minor under Subsection (2) is relieved from the liability imposed under Subsection (3) or the minor operating a motor vehicle subsequent to the cancellation.

(6) (a) The division upon receipt of satisfactory evidence of the death of the person who signed the application of a minor under Subsection (2) shall cancel the permit or license and may not issue a new permit or license until a new application, signed and verified, is made under this chapter.

(b) This Subsection (6) does not apply to an application of a person who is no longer a minor.

(7) (a) In addition to the liability assumed under this section, the person who signs the application of a minor for a provisional license must certify that the minor applicant, under the authority of a permit issued under this chapter, has completed at least 40 hours of driving a motor vehicle, of which at least 10 hours shall be during night hours after sunset.

(b) The hours of driving a motor vehicle required under Subsection (7)(a) may include:

(i) hours completed in a driver education course as required under Subsection 53-3-505.5(1); and

(ii) up to five hours completed by driving simulation practice on a fully interactive driving simulation device at the substitution rate provided under Subsection 53-3-505.5(2)(b).

Amended by Chapter 314, 2008 General Session

**53-3-212. Owner giving permission and minor liable for damages caused by minor driving a motor vehicle.**

(1) (a) The owner of a motor vehicle causing or knowingly permitting a person younger than 18 years of age to drive the motor vehicle on a highway, or a person who gives or furnishes a motor vehicle to the minor, are each jointly and severally liable with the minor for any damages caused by the negligence of the minor in driving the motor vehicle.

(b) If owner's or operator's security covering the minor's operation of the motor vehicle is in effect in amounts as required under Section 31A-22-304, the owner of the motor vehicle or the person who gave or furnished the motor vehicle to the minor under Subsection (1) is not subject to the liability imposed under Subsection (1).

(2) Nothing under Subsection (1) prohibits a cause of action for any direct negligence on the part of the person furnishing the motor vehicle to the minor.

(3) This liability provision is in addition to the liability provisions in Section 53-3-211.

Amended by Chapter 86, 2010 General Session

**53-3-213. Age and experience requirements to drive school bus or certain other carriers -- Misdemeanor to drive unauthorized class of motor vehicle -- Waiver of driving examination by third party certification.**

(1) (a) A person must be at least 21 years of age:

(i) to drive any school bus;

(ii) to drive any commercial motor vehicle outside this state; or

(iii) while transporting passengers for hire or hazardous materials.

(b) Subject to the requirements of Subsection (1)(a), the division may grant a commercial driver license to any applicant who is at least 18 years of age and has had at least one year of previous driving experience.

(c) It is a class C misdemeanor for any person to drive a class of motor vehicle for which he is not licensed.

(2) (a) At the discretion of the commissioner and under standards established by the division, persons employed as commercial drivers may submit a third party certification as provided in Part 4, Uniform Commercial Driver License Act, in lieu of the driving segment of the examination.

(b) The division shall maintain necessary records and set standards to certify companies desiring to qualify under Subsection (2)(a).

Amended by Chapter 324, 2010 General Session

**53-3-214. Renewal -- Fees required -- Extension without examination.**

(1) (a) The holder of a valid license may renew the holder's license and any endorsement to the license by applying:

(i) at any time within six months before the license expires; or

(ii) more than six months prior to the expiration date if the applicant furnishes proof that the applicant will be absent from the state during the six-month period prior to the expiration of the license.

(b) The application for a renewal of, extension of, or any endorsement to a license shall be accompanied by a fee under Section 53-3-105.

(2) (a) Except as provided under Subsections (2)(b) and (3), upon application for renewal of a regular license certificate, provisional license, and any endorsement to a regular license certificate, the division shall reexamine each applicant as if for an original license and endorsement to the license, if applicable.

(b) Except as provided under Subsection (2)(c), upon application for renewal of a limited-term license certificate, limited-term provisional license certificate, and any endorsement to a limited-term license certificate, the division shall:

(i) reexamine each applicant as if for an original limited-term license certificate and endorsement to the limited-term license certificate, if applicable; and

(ii) verify through valid documentary evidence that the status by which the individual originally qualified for the limited-term license certificate has been extended by the United States Citizenship and Immigration Services or other authorized agency of the United States Department of Homeland Security.

(c) The division may waive any or all portions of the test designed to demonstrate the applicant's ability to exercise ordinary and reasonable control driving a motor vehicle.

(3) (a) Except as provided under Subsections (3)(b) and (c), the division may extend a regular license certificate, any endorsement to the regular license certificate, a provisional license, and any endorsement to a provisional license for five years without examination for licensees whose driving records for the five years immediately preceding the determination of eligibility for extension show:

(i) no suspensions;

(ii) no revocations;

(iii) no conviction for reckless driving under Section 41-6a-528; and

(iv) no more than four reportable violations in the preceding five years.

(b) Except as provided in Subsection (3)(g), after the expiration of a regular license certificate, a new regular license certificate and any endorsement to a regular license certificate may not be issued until the person has again passed the tests under Section 53-3-206 and paid the required fee.

(c) After the expiration of a limited-term license certificate, a new limited-term license certificate and any endorsement to a limited-term license certificate may not be issued until the person has:

(i) again passed the tests under Section 53-3-206 and paid the required fee; and

(ii) presented documentary evidence that the status by which the individual originally qualified for the limited-term license certificate has been extended by the United States Citizenship and Immigration Services or other authorized agency of the United States Department of Homeland Security.

(d) A person 65 years of age or older shall take and pass the eye examination specified in Section 53-3-206.

(e) An extension may not be granted to any person:

(i) who is identified by the division as having a medical impairment that may represent a hazard to public safety;

(ii) holding a CDL or limited-term CDL issued under Part 4, Uniform Commercial Driver License Act;

(iii) who is holding a limited-term license certificate; or

(iv) who is holding a driving privilege card issued in accordance with Section 53-3-207.

(f) The division shall allow extensions:

(i) by mail, electronic means, or other means as determined by the division at the appropriate extension fee rate under Section 53-3-105;

(ii) only if the applicant qualifies under this section; and

(iii) for only one extension.

(g) The division may waive any or all portions of the test designed to demonstrate the applicant's ability to exercise ordinary and reasonable control driving a motor vehicle.

Amended by Chapter 335, 2012 General Session

**53-3-214.5. License or identification card checkoff for vision screening.**

(1) A person who applies for a license or identification card or a renewal of a license or identification card may designate a voluntary contribution for vision screening of $2.

(2) This contribution shall be:

(a) collected by the division;

(b) treated as a voluntary contribution to Friends For Sight to provide blindness prevention education, screening, and treatment and not as a license fee; and

(c) transferred to Friends For Sight at least monthly, less actual administrative costs associated with collecting and transferring the contributions.

Amended by Chapter 30, 2003 General Session
Amended by Chapter 126, 2003 General Session

**53-3-214.7. License or identification card checkoff for promoting and supporting organ donation.**

(1) A person who applies for a license or identification card or a renewal of a license or identification card may designate a voluntary contribution of $2 for the purpose of promoting and supporting organ donation.

(2) This contribution shall be:

(a) collected by the division;

(b) treated as a voluntary contribution to the Organ Donation Contribution Fund created in Section 26-18b-101 and not as a license fee; and

(c) transferred to the Organ Donation Contribution Fund created in Section 26-18b-101 at least monthly, less actual administrative costs associated with collecting and transferring the contributions.

Amended by Chapter 30, 2003 General Session

**53-3-214.8. License or identification card checkoff for public transportation for seniors or people with disabilities.**

(1) A person who applies for a license or identification card or a renewal of a license or identification card may designate a voluntary contribution of $1 for public transportation assistance for seniors or people with disabilities.

(2) This contribution shall be:

(a) collected by the division;

(b) treated as a voluntary contribution to the "Out and About" Homebound Transportation Assistance Fund created in Section 62A-3-110 to provide public transportation assistance for seniors or people with disabilities and not as a license fee; and

(c) transferred to the "Out and About" Homebound Transportation Assistance Fund created in Section 62A-3-110 at least monthly, less actual administrative costs associated with collecting and transferring the contributions.

Amended by Chapter 30, 2003 General Session

**53-3-215. Duplicate license certificate -- Fee.**

(1) (a) If a license certificate issued under this chapter is lost, stolen, or destroyed, the person to whom the license certificate was issued may obtain a duplicate upon furnishing proof satisfactory to the division that the license certificate has been lost, stolen, or destroyed and upon payment of a duplicate fee under Section 53-3-105.

(b) A person may not be issued a duplicate license certificate under this section unless the person complies with Subsection 53-3-204(2)(f).

(2) When the division is advised that a license certificate has been lost, stolen, or destroyed, the license certificate is then void.

Amended by Chapter 335, 2012 General Session

**53-3-216. Change of address -- Duty of licensee to notify division within 10 days -- Change of name -- Proof necessary -- Method of giving notice by division.**

(1) If a person, after applying for or receiving a license, moves from the address named in the application or in the license certificate issued to him, the person shall within 10 days of moving, notify the division in a manner specified by the division of his new address and the number of any license certificate held by him.

(2) If a person requests to change the surname on the applicant's license, the division shall issue a substitute license with the new name upon receiving an application and fee for a duplicate license and any of the following proofs of the applicant's full legal name:

(a) an original or certified copy of the applicant's marriage certificate;

(b) a certified copy of a court order under Title 42, Chapter 1, Change of Name, showing the name change;

(c) an original or certified copy of a birth certificate issued by a government agency;

(d) a certified copy of a divorce decree or annulment granted the applicant that specifies the name change requested; or

(e) a certified copy of a divorce decree that does not specify the name change requested together with:

(i) an original or certified copy of the applicant's birth certificate;

(ii) the applicant's marriage license;

(iii) a driver license record showing use of a maiden name; or

(iv) other documentation the division finds acceptable.

(3) (a) Except as provided in Subsection (3)(c), if a person has applied for and received a license certificate and is currently required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry:

(i) the person's original license or renewal to an original license expires on the next birth date of the licensee beginning on July 1, 2006;

(ii) the person shall surrender the person's license to the division on or before the licensee's next birth date beginning on July 1, 2006; and

(iii) the person may apply for a license certificate with an expiration date identified in Subsection 53-3-205(7)(h) by:

(A) furnishing proper documentation to the division as provided in Section 53-3-205; and

(B) paying the fee for a license required under Section 53-3-105.

(b) Except as provided in Subsection (3)(c), if a person has applied for and received a license certificate and is subsequently convicted of any offense listed in Subsection 77-41-102(16), the person shall surrender the license certificate to the division on the person's next birth date following the conviction and may apply for a license certificate with an expiration date identified in Subsection 53-3-205(7)(h) by:

(i) furnishing proper documentation to the division as provided in Section 53-3-205; and

(ii) paying the fee for a license required under Section 53-3-105.

(c) A person who is unable to comply with the provisions of Subsection (3)(a) or (3)(b) because the person is in the custody of the Department of Corrections or the Division of Juvenile Justice Services, confined in a correctional facility not operated by or under contract with the Department of Corrections, or committed to a state mental facility, shall comply with the provisions of Subsection (3)(a) or (b) within 10 days of being released from confinement.

(4) (a) If the division is authorized or required to give any notice under this chapter or other law regulating the operation of vehicles, the notice shall, unless otherwise prescribed, be given by:

(i) personal delivery to the person to be notified; or

(ii) deposit in the United States mail with postage prepaid, addressed to the person at his address as shown by the records of the division.

(b) The giving of notice by mail is complete upon the expiration of four days after the deposit of the notice.

(c) Proof of the giving of notice in either manner may be made by the certificate of any officer or employee of the division or affidavit of any person older than 18 years of age, naming the person to whom the notice was given and specifying the time, place, and manner of giving the notice.

(5) The division may use state mailing or United States Postal Service information to:

(a) verify an address on an application or on records of the division; and

(b) correct mailing addresses in the division's records.

(6) (a) A violation of the provisions of Subsection (1) is an infraction.

(b) A person who knowingly fails to surrender a license certificate under Subsection (3) is guilty of a class A misdemeanor.

Amended by Chapter 145, 2012 General Session

**53-3-217. License to be carried when driving motor vehicle -- Production in court -- Violation.**

(1) (a) The licensee shall have his license certificate in his immediate possession at all times when driving a motor vehicle.

(b) A licensee shall display his license certificate upon demand of a justice of peace, a peace officer, or a field deputy or inspector of the division.

(2) It is a defense to a charge under this section that the person charged produces in court a license certificate issued to him and valid at the time of his citation or arrest.

(3) A person who violates Subsection (1)(a) is guilty of a class C misdemeanor.

Amended by Chapter 51, 1997 General Session

**53-3-218. Court to report convictions and may recommend suspension of license -- Severity of speeding violation defined.**

(1) As used in this section, "conviction" means conviction by the court of first impression or final administrative determination in an administrative traffic proceeding.

(2) (a) Except as provided in Subsection (2)(c), a court having jurisdiction over offenses committed under this chapter or any other law of this state, or under any municipal ordinance regulating driving motor vehicles on highways or driving motorboats on the water, shall forward to the division within five days, an abstract of the court record of the conviction or plea held in abeyance of any person in the court for a reportable traffic or motorboating violation of any laws or ordinances, and may recommend the suspension of the license of the person convicted.

(b) When the division receives a court record of a conviction or plea in abeyance for a motorboat violation, the division may only take action against a person's driver license if the motorboat violation is for a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(c) (i) A court is not required to forward to the division within five days an abstract of the court record of the conviction for a violation described in Subsection 53-3-220(1)(c) and the Driver License Division is not required to suspend a person's license for a violation described in Subsection 53-3-220(1)(c) if:

(A) the violation did not involve a motor vehicle; and

(B) the person convicted of a violation described in Subsection 53-3-220(1)(c):

(I) is participating in or has successfully completed substance abuse treatment at a licensed substance abuse treatment program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105; or

(II) is participating in or has successfully completed probation through the Department of Corrections Adult Probation and Parole in accordance with Section 77-18-1.

(ii) If the person convicted of a violation described in Subsection 53-3-220(1)(c) fails to comply with the terms of a substance abuse treatment program under Subsection (2)(c)(i)(B)(I) or the terms of probation under Subsection (2)(c)(i)(B)(II):

(A) the substance abuse treatment program licensed by the Division of Substance Abuse and Mental Health or the Department of Corrections Adult Probation and Parole shall immediately provide an affidavit or other sworn information to the court notifying the court that the person has failed to comply with the terms of a substance abuse treatment program under Subsection (2)(c)(i)(B)(I) or the terms of probation under Subsection (2)(c)(i)(B)(II);

(B) upon receipt of an affidavit or sworn statement under Subsection (2)(c)(ii)(A), the court shall immediately forward an abstract of the court record of the conviction for a violation described in Subsection 53-3-220(1)(c) to the division; and

(C) the division shall immediately suspend the person's license in accordance with Subsection 53-3-220(1)(c).

(3) The abstract shall be made in the form prescribed by the division and shall include:

(a) the name, date of birth, and address of the party charged;
(b) the license certificate number of the party charged, if any;
(c) the registration number of the motor vehicle or motorboat involved;
(d) whether the motor vehicle was a commercial motor vehicle;
(e) whether the motor vehicle carried hazardous materials;
(f) whether the motor vehicle carried 16 or more occupants;
(g) whether the driver presented a commercial driver license;
(h) the nature of the offense;
(i) whether the offense involved an accident;
(j) the driver's blood alcohol content, if applicable;
(k) if the offense involved a speeding violation:
(i) the posted speed limit;
(ii) the actual speed; and
(iii) whether the speeding violation occurred on a highway that is part of the interstate system as defined in Section 72-1-102;
(l) the date of the hearing;
(m) the plea;
(n) the judgment or whether bail was forfeited; and
(o) the severity of the violation, which shall be graded by the court as "minimum," "intermediate," or "maximum" as established in accordance with Subsection 53-3-221(4).
(4) When a convicted person secures a judgment of acquittal or reversal in any appellate court after conviction in the court of first impression, the division shall reinstate the convicted person's license immediately upon receipt of a certified copy of the judgment of acquittal or reversal.
(5) Upon a conviction for a violation of the prohibition on using a handheld wireless communication device for text messaging or electronic mail communication while operating a moving motor vehicle under Section 41-6a-1716, a judge may order a suspension of the convicted person's license for a period of three months.
(6) Upon a conviction for a violation of careless driving under Section 41-6a-1715 that causes or results in the death of another person, a judge may order a revocation of the convicted person's license for a period of one year.

Amended by Chapter 190, 2011 General Session

**53-3-219. Suspension of minor's driving privileges.**
(1) The division shall immediately suspend all driving privileges of any person upon receipt of an order suspending driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 78A-6-606.
(2) (a) (i) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 78A-6-606, the division shall:
(A) impose a suspension for a period of one year;
(B) if the person has not been issued an operator license, deny the person's application for a license or learner's permit for a period of one year; or
(C) if the person is under the age of eligibility for a driver license, deny the

person's application for a license or learner's permit beginning on the date of conviction and continuing for one year beginning on the date of eligibility for a driver license.

(ii) Upon receipt of the first order suspending a person's driving privileges under this section, the division shall reduce the suspension period under Subsection (2)(a)(i)(A), (B), or (C) if ordered by the court in accordance with Subsection 32B-4-409(5)(b), 32B-4-410(4)(b), 76-9-701(4)(b), or 78A-6-606(3)(b).

(b) (i) Upon receipt of a second or subsequent order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 78A-6-606, the division shall:

(A) impose a suspension for a period of two years;

(B) if the person has not been issued an operator license or is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit for a period of two years; or

(C) if the person is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit beginning on the date of conviction and continuing for two years beginning on the date of eligibility for a driver license.

(ii) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 78A-6-606, the division shall reduce the suspension period if ordered by the court in accordance with Subsection 32B-4-409(5)(c), 32B-4-410(4)(c), 76-9-701(4)(c), or 78A-6-606(3)(c).

(3) The Driver License Division shall subtract from any suspension or revocation period for a conviction of a violation of Section 32B-4-409 the number of days for which a license was previously suspended under Section 53-3-231, if the previous sanction was based on the same occurrence upon which the record of conviction is based.

(4) After reinstatement of the license described in Subsection (1), a report authorized under Section 53-3-104 may not contain evidence of the suspension of a minor's license under this section if the minor has not been convicted of any other offense for which the suspension under Subsection (1) may be extended.

Amended by Chapter 314, 2014 General Session

**53-3-220. Offenses requiring mandatory revocation, denial, suspension, or disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.**

(1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or disqualification, the division shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's conviction for:

(i) manslaughter or negligent homicide resulting from driving a motor vehicle, or automobile homicide under Section 76-5-207 or 76-5-207.5;

(ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;

(v) any felony under the motor vehicle laws of this state;

(vi) any other felony in which a motor vehicle is used to facilitate the offense;

(vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;

(viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

(ix) failure to bring a motor vehicle to a stop at the command of a peace officer as required in Section 41-6a-210;

(x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;

(xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle;

(xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

(xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517;

(xiv) until July 30, 2015, operating or being in actual physical control of a motor vehicle while having any alcohol in the person's body in violation of Section 53-3-232;

(xv) operating or being in actual physical control of a motor vehicle while having any measurable or detectable amount of alcohol in the person's body in violation of Section 41-6a-530;

(xvi) engaging in a motor vehicle speed contest or exhibition of speed on a highway in violation of Section 41-6a-606;

(xvii) operating or being in actual physical control of a motor vehicle in this state without an ignition interlock system in violation of Section 41-6a-518.2; or

(xviii) custodial interference, under:

(A) Subsection 76-5-303(3), which suspension shall be for a period of 30 days, unless the court provides the division with an order of suspension for a shorter period of time;

(B) Subsection 76-5-303(4), which suspension shall be for a period of 90 days, unless the court provides the division with an order of suspension for a shorter period of time; or

(C) Subsection 76-5-303(5), which suspension shall be for a period of 180 days, unless the court provides the division with an order of suspension for a shorter period of time.

(b) The division shall immediately revoke the license of a person upon receiving

a record of an adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for:

(i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle; or

(ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

(c) Except when action is taken under Section 53-3-219 for the same offense, the division shall immediately suspend for six months the license of a person upon receiving a record of conviction for:

(i) any violation of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

(ii) any criminal offense that prohibits:

(A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsection (1)(c)(i); or

(B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).

(d) (i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

(A) an order from the sentencing court requiring that the person's driver license be suspended; and

(B) a record of the conviction.

(ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

(e) (i) The division shall immediately suspend for one year the license of a person upon receiving a record of:

(A) conviction for the first time for a violation under Section 32B-4-411; or

(B) an adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under Section 32B-4-411.

(ii) The division shall immediately suspend for a period of two years the license of a person upon receiving a record of:

(A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

(II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior conviction for a violation under Section 32B-4-411; or

(B) (I) a second or subsequent adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under Section 32B-4-411; and

(II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under Section 32B-4-411.

(iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

(A) for a conviction or adjudication described in Subsection (1)(e)(i):

(I) impose a suspension for one year beginning on the date of conviction; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for one year beginning on the date of eligibility for a driver license; or

(B) for a conviction or adjudication described in Subsection (1)(e)(ii):

(I) impose a suspension for a period of two years; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for two years beginning on the date of eligibility for a driver license.

(2) The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:

(a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;

(b) a record of a conviction of the person for any violation of the motor vehicle law in which the person was involved as a driver;

(c) a report of an arrest of the person for any violation of the motor vehicle law in which the person was involved as a driver; or

(d) a report of an accident in which the person was involved as a driver.

(3) When the division receives a report under Subsection (2)(c) or (d) that a person is driving while the person's license is denied, suspended, disqualified, or revoked, the person is entitled to a hearing regarding the extension of the time of denial, suspension, disqualification, or revocation originally imposed under Section 53-3-221.

(4) (a) The division may extend to a person the limited privilege of driving a motor vehicle to and from the person's place of employment or within other specified limits on recommendation of the judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2) except:

(i) automobile homicide under Subsection (1)(a)(i);

(ii) those offenses referred to in Subsections (1)(a)(ii), (iii), (xi), (xii), (xiii), (1)(b), and (1)(c); and

(iii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502, 41-6a-517, a local ordinance which complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:

(A) the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;

(B) the division receives written verification from the person's primary care physician that:

(I) to the physician's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years; and

(II) the physician is not aware of any physical, emotional, or mental impairment

that would affect the person's ability to operate a motor vehicle safely; and

(C) for a period of one year prior to the date of the request for a limited driving privilege:

(I) the person has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle;

(II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and

(III) the division has not received a report of an accident in which the person was involved as an operator of a vehicle.

(b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege authorized in this Subsection (4):

(A) is limited to when undue hardship would result from a failure to grant the privilege; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(ii) The discretionary privilege authorized in Subsection (4)(a)(iii):

(A) is limited to when the limited privilege is necessary for the person to commute to school or work; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

Amended by Chapter 276, 2010 General Session
Amended by Chapter 374, 2010 General Session

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

(1) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may deny, suspend, disqualify, or revoke the license or permit of any person without receiving a record of the person's conviction of crime when the division has been notified or has reason to believe the person:

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

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

(c) is incompetent to drive a motor vehicle or mobility vehicle or has a mental or physical disability rendering it unsafe for the person to drive a motor vehicle or mobility vehicle upon the highways;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) that occurred in another state; and

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

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

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

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

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

maximum.

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

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

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

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

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

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

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

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

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

(f) (i) By publication in two newspapers having general circulation throughout the state, the division shall give notice of the number of points it has assigned to each type of traffic violation, the time limit set by the division for the deletion of points, and the point level at which the division will generally take action to deny or suspend under this section.

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

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

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

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

(iv) After the hearing the division shall either rescind or affirm its decision to deny, suspend, disqualify, or revoke the license.

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

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

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

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

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

(6) (a) Subject to Subsection (6)(d), the division shall suspend a person's license when the division receives notice from the Office of Recovery Services that the Office of

Recovery Services has ordered the suspension of the person's license.

(b) A suspension under Subsection (6)(a) shall remain in effect until the division receives notice from the Office of Recovery Services that the Office of Recovery Services has rescinded the order of suspension.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Any nonresident who drives a motor vehicle upon a highway when the

person's license has been suspended or revoked by the division is guilty of a class C misdemeanor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) a CDL license holder; or

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

(13) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may suspend the license of a person if it has reason to believe that the person is the owner of a motor vehicle for which security is required under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act, and has driven the motor vehicle or permitted it to be driven within this

state without the security being in effect.

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

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

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

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

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

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

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

Amended by Chapter 101, 2014 General Session
Amended by Chapter 225, 2014 General Session

**53-3-221.5. Disclosure of license information to the Office of Recovery Services.**

(1) The division shall disclose to the Office of Recovery Services the name, address, and other identifying information of each person:

(a) to whom a license has been issued; or

(b) whose driving privileges have been suspended, revoked, or reinstated.

(2) All information received by the Office of Recovery Services under this section is subject to Title 63G, Chapter 2, Government Records Access and Management Act.

Amended by Chapter 382, 2008 General Session

**53-3-222. Purpose of revocation or suspension for driving under the influence.**

The Legislature finds that the purpose of this title relating to suspension or revocation of a person's license or privilege to drive a motor vehicle for driving with a blood alcohol content above a certain level or while under the influence of alcohol, any drug, or a combination of alcohol and any drug, or for refusing to take a chemical test as provided in Section 41-6a-520, is protecting persons on highways by quickly removing from the highways those persons who have shown they are safety hazards.

Amended by Chapter 2, 2005 General Session

**53-3-223. Chemical test for driving under the influence -- Temporary**

**license -- Hearing and decision -- Suspension and fee -- Judicial review.**

(1) (a) If a peace officer has reasonable grounds to believe that a person may be violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a certain blood or breath alcohol concentration and driving under the influence of any drug, alcohol, or combination of a drug and alcohol or while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517, the peace officer may, in connection with arresting the person, request that the person submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6a-520.

(b) In this section, a reference to Section 41-6a-502 includes any similar local ordinance adopted in compliance with Subsection 41-6a-510(1).

(2) The peace officer shall advise a person prior to the person's submission to a chemical test that a test result indicating a violation of Section 41-6a-502 or 41-6a-517 shall, and the existence of a blood alcohol content sufficient to render the person incapable of safely driving a motor vehicle may, result in suspension or revocation of the person's license to drive a motor vehicle.

(3) If the person submits to a chemical test and the test results indicate a blood or breath alcohol content in violation of Section 41-6a-502 or 41-6a-517, or if a peace officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Section 41-6a-502, a peace officer shall, on behalf of the division and within 24 hours of arrest, give notice of the division's intention to suspend the person's license to drive a motor vehicle.

(4) (a) When a peace officer gives notice on behalf of the division, the peace officer shall:

(i) take the Utah license certificate or permit, if any, of the driver;

(ii) issue a temporary license certificate effective for only 29 days from the date of arrest; and

(iii) supply to the driver, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.

(b) A citation issued by a peace officer may, if provided in a manner specified by the division, also serve as the temporary license certificate.

(5) As a matter of procedure, a peace officer shall send to the division within 10 calendar days after the day on which notice is provided:

(a) the person's license certificate;

(b) a copy of the citation issued for the offense;

(c) a signed report in a manner specified by the division indicating the chemical test results, if any; and

(d) any other basis for the peace officer's determination that the person has violated Section 41-6a-502 or 41-6a-517.

(6) (a) Upon request in a manner specified by the division, the division shall grant to the person an opportunity to be heard within 29 days after the date of arrest. The request to be heard shall be made within 10 calendar days of the day on which notice is provided under Subsection (5).

(b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the division in:

(A) the county in which the arrest occurred; or

(B) a county that is adjacent to the county in which the arrest occurred.

(ii) The division may hold a hearing in some other county if the division and the person both agree.

(c) The hearing shall be documented and shall cover the issues of:

(i) whether a peace officer had reasonable grounds to believe the person was driving a motor vehicle in violation of Section 41-6a-502 or 41-6a-517;

(ii) whether the person refused to submit to the test; and

(iii) the test results, if any.

(d) (i) In connection with a hearing the division or its authorized agent:

(A) may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers; or

(B) may issue subpoenas for the attendance of necessary peace officers.

(ii) The division shall pay witness fees and mileage from the Transportation Fund in accordance with the rates established in Section 78B-1-119.

(e) The division may designate one or more employees to conduct the hearing.

(f) Any decision made after a hearing before any designated employee is as valid as if made by the division.

(7) (a) If, after a hearing, the division determines that a peace officer had reasonable grounds to believe that the person was driving a motor vehicle in violation of Section 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the notice, or if a hearing is not requested under this section, the division shall:

(i) if the person is 21 years of age or older at the time of arrest and the arrest was made on or after July 1, 2009, suspend the person's license or permit to operate a motor vehicle for a period of:

(A) 120 days beginning on the 30th day after the date of arrest for a first suspension; or

(B) two years beginning on the 30th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(ii) if the person is under 21 years of age at the time of arrest and the arrest was made on or after May 14, 2013:

(A) suspend the person's license or permit to operate a motor vehicle:

(I) for a period of six months, beginning on the 30th day after the date of arrest for a first suspension; or

(II) until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 30th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(B) deny the person's application for a license or learner's permit:

(I) for a period of six months for a first suspension, if the person has not been issued an operator license; or

(II) until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 30th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years.

(b) The division shall deny or suspend a person's license for the denial and suspension periods in effect:

(i) prior to July 1, 2009, for an offense that was committed prior to July 1, 2009;

(ii) from July 1, 2009, through June 30, 2011, if:

(A) the person was 20 years 6 months of age or older but under 21 years of age at the time of arrest; and

(B) the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; or

(iii) prior to May 14, 2013, for an offense that was committed prior to May 14, 2013.

(c) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall reinstate a person's license prior to completion of the 120 day suspension period imposed under Subsection (7)(a)(i)(A):

(A) immediately upon receiving written verification of the person's dismissal of a charge for a violation of Section 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the suspension period; or

(B) no sooner than 60 days beginning on the 30th day after the date of arrest upon receiving written verification of the person's reduction of a charge for a violation of Section 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the suspension period.

(ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A) or (7)(b), the division shall reinstate a person's license prior to completion of the 120-day suspension period imposed under Subsection (7)(a)(i)(A) immediately upon receiving written verification of the person's conviction of impaired driving under Section 41-6a-502.5 if:

(A) the written verification is received prior to completion of the suspension period; and

(B) the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed the program of a driving under the influence court as defined in Section 41-6a-501.

(iii) If a person's license is reinstated under this Subsection (7)(c), the person is required to pay the license reinstatement fees under Subsections 53-3-105(23) and (24).

(iv) The driver license reinstatements authorized under this Subsection (7)(c) only apply to a 120 day suspension period imposed under Subsection (7)(a)(i)(A).

(8) (a) Notwithstanding the provisions in Subsection (7)(b)(iii), the division shall shorten a person's two-year license suspension period that is currently in effect to a six-month suspension period if:

(i) the driver was under the age of 19 at the time of arrest;

(ii) the offense was a first offense that was committed prior to May 14, 2013; and

(iii) the suspension under Subsection (7)(b)(iii) was based on the same occurrence upon which the following written verifications are based:

(A) a court order shortening the driver license suspension for a violation of Section 41-6a-502 pursuant to Subsection 41-6a-509(8);

(B) a court order shortening the driver license suspension for a violation of Section 41-6a-517 pursuant to Subsection 41-6a-517(11);

(C) a court order shortening the driver license suspension for a violation of Section 32B-4-409;

(D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409; or

(G) other written documentation acceptable to the division.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing requirements for acceptable written documentation to shorten a person's driver license suspension period under Subsection (8)(a)(iii)(G).

(c) If a person's license sanction is shortened under this Subsection (8), the person is required to pay the license reinstatement fees under Subsections 53-3-105(23) and (24).

(9) (a) The division shall assess against a person, in addition to any fee imposed under Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to cover administrative costs, which shall be paid before the person's driving privilege is reinstated. This fee shall be cancelled if the person obtains an unappealed division hearing or court decision that the suspension was not proper.

(b) A person whose license has been suspended by the division under this section following an administrative hearing may file a petition within 30 days after the suspension for a hearing on the matter which, if held, is governed by Section 53-3-224.

Amended by Chapter 7, 2014 General Session

**53-3-223.5. Telephonic or live audiovisual testimony at hearings.**

In any division hearing authorized under this chapter or Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving, the division may permit a party or witness to attend or to testify by telephone or live audiovisual means.

Amended by Chapter 2, 2005 General Session

**53-3-224. Filing a petition for hearing -- Judicial review of license cancellation, revocation, or suspension -- Scope of review.**

(1) A person denied a license or whose license has been cancelled, suspended, or revoked by the division following an administrative hearing may seek judicial review of the division's order.

(2) (a) Venue for judicial review of informal adjudicative proceedings is in the district court in the county where the offense occurred, which resulted in the cancellation, suspension, or revocation.

(b) Persons not residing in the state shall file in Salt Lake County or the county where the offense occurred, which resulted in the cancellation, suspension, or revocation.

Amended by Chapter 261, 2007 General Session

**53-3-225. Eligibility for new license after revocation.**

(1) (a) Except as provided in Subsections (1)(b) and (c), a person whose license

has been revoked under this chapter may not apply for or receive any new license until the expiration of one year from the date the former license was revoked.

(b) A person's license may be revoked for a longer period as provided in:

(i) Section 53-3-220, for driving a motor vehicle while the person's license is revoked, or involvement as a driver in an accident or violation of the motor vehicle laws; and

(ii) Section 53-3-221, for failing to comply with the terms of a traffic citation.

(c) (i) The length of the revocation required by Subsection 53-3-220(1)(a)(xi), (a)(xii), (b)(i), or (b)(ii) shall be specified in an order of the court adjudicating or convicting the person of the offense.

(ii) If the person adjudicated of the offense is younger than 16 years of age, the license or driving privilege shall be revoked for a minimum of one year, from age 16, but not to exceed the date the person turns 21 years of age.

(iii) If the person adjudicated or convicted of the offense is 16 years of age or older, the license or driving privilege shall be revoked for a minimum of one year, but not to exceed five years.

(d) A revoked license may not be renewed.

(e) Application for a new license shall be filed in accordance with Section 53-3-205.

(f) The new license is subject to all provisions of an original license.

(g) The division may not grant the license until an investigation of the character, driving abilities, and habits of the driver has been made to indicate whether it is safe to grant him a license.

(2) Any resident or nonresident whose license to drive a motor vehicle in this state has been suspended or revoked under this chapter may not drive a motor vehicle in this state under a license, permit, or registration certificate issued by any other jurisdiction or other source during suspension or after revocation until a new license is obtained under this chapter.

Amended by Chapter 324, 2010 General Session

**53-3-226. Grounds for confiscation of licenses, plates, and other articles issued by state.**

(1) The division or a peace officer acting in his official capacity may take possession of any certificate of title, registration card, decal, permit, license certificate, permit, registration plate, or any other article issued by the state:

(a) that is fictitious or altered;

(b) that has been unlawfully or erroneously issued;

(c) that is unlawfully or erroneously displayed; or

(d) as required under Section 41-6a-520, 53-3-223, 53-3-231, or 53-3-418.

(2) A receipt shall be issued that describes each confiscated item.

Amended by Chapter 2, 2005 General Session

**53-3-227. Driving a motor vehicle prohibited while driving privilege denied, suspended, disqualified, or revoked -- Penalties.**

(1) A person whose driving privilege has been denied, suspended, disqualified, or revoked under this chapter or under the laws of the state in which the person's driving privilege was granted and who drives any motor vehicle upon the highways of this state while that driving privilege is denied, suspended, disqualified, or revoked shall be punished as provided in this section.

(2) A person convicted of a violation of Subsection (1), other than a violation specified in Subsection (3), is guilty of a class C misdemeanor.

(3) (a) A person is guilty of a class B misdemeanor if the person's conviction under Subsection (1) is based on the person driving a motor vehicle while the person's driving privilege is suspended, disqualified, or revoked for:

(i) a refusal to submit to a chemical test under Section 41-6a-520;

(ii) a violation of Section 41-6a-502;

(iii) a violation of a local ordinance that complies with the requirements of Section 41-6a-510;

(iv) a violation of Section 41-6a-517;

(v) a violation of Section 76-5-207;

(vi) a criminal action that the person plead guilty to as a result of a plea bargain after having been originally charged with violating one or more of the sections or ordinances under this Subsection (3);

(vii) a revocation or suspension which has been extended under Subsection 53-3-220(2);

(viii) where disqualification is the result of driving a commercial motor vehicle while the person's CDL is disqualified, suspended, canceled, or revoked under Subsection 53-3-414(1); or

(ix) a violation of Section 41-6a-530.

(b) A person is guilty of a class B misdemeanor if the person's conviction under Subsection (1) is based on the person driving a motor vehicle while the person's driving privilege is suspended, disqualified, or revoked by any state, the United States, or any district, possession, or territory of the United States for violations corresponding to the violations listed in Subsection (3)(a).

(c) A fine imposed under this Subsection (3) shall be at least the maximum fine for a class C misdemeanor under Section 76-3-301.

Amended by Chapter 250, 2008 General Session

**53-3-229. Prohibited uses of license certificate -- Penalty.**

(1) It is a class C misdemeanor for a person to:

(a) lend or knowingly permit the use of a license certificate issued to the person, by a person not entitled to it;

(b) display or to represent as the person's own a license certificate not issued to the person;

(c) refuse to surrender to the division or a peace officer upon demand any license certificate issued by the division;

(d) use a false name or give a false address in any application for a license or any renewal or duplicate of the license certificate, or to knowingly make a false statement, or to knowingly conceal a material fact or otherwise commit a fraud in the

application;

(e) display a canceled, denied, revoked, suspended, or disqualified driver license certificate as a valid driver license certificate;

(f) knowingly acquire, use, display, or transfer an item that purports to be an authentic driver license certificate issued by a governmental entity if the item is not an authentic driver license certificate issued by that governmental entity; or

(g) alter any information on an authentic driver license certificate so that it no longer represents the information originally displayed.

(2) The provisions of Subsection (1)(e) do not prohibit the use of a person's driver license certificate as a means of personal identification.

(3) It is a class A misdemeanor to knowingly:

(a) issue a driver license certificate with false or fraudulent information;

(b) issue a driver license certificate to a person younger than 21 years of age if the driver license certificate is not distinguished as required for a person younger than 21 years of age under Section 53-3-207; or

(c) acquire, use, display, or transfer a false or altered driver license certificate to procure:

(i) a cigarette;

(ii) an electronic cigarette, as defined in Section 76-10-101;

(iii) tobacco; or

(iv) a tobacco product.

(4) A person may not use, display, or transfer a false or altered driver license certificate to procure alcoholic beverages, gain admittance to a place where alcoholic beverages are sold or consumed, or obtain employment that may not be obtained by a minor in violation of Section 32B-1-403.

(5) It is a third degree felony if a person's acquisition, use, display, or transfer of a false or altered driver license certificate:

(a) aids or furthers the person's efforts to fraudulently obtain goods or services; or

(b) aids or furthers the person's efforts to commit a violent felony.

Amended by Chapter 114, 2010 General Session
Amended by Chapter 276, 2010 General Session

**53-3-231. Person under 21 may not operate a vehicle or motorboat with detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing and decision -- Suspension of license or operating privilege -- Fees -- Judicial review -- Referral to local substance abuse authority or program.**

(1) (a) As used in this section:

(i) "Local substance abuse authority" has the same meaning as provided in Section 62A-15-102.

(ii) "Substance abuse program" means any substance abuse program licensed by the Department of Human Services or the Department of Health and approved by the local substance abuse authority.

(b) Calculations of blood, breath, or urine alcohol concentration under this section shall be made in accordance with the procedures in Subsection 41-6a-502(1).

(2) (a) A person younger than 21 years of age may not operate or be in actual physical control of a vehicle or motorboat with any measurable blood, breath, or urine alcohol concentration in the person's body as shown by a chemical test.

(b) A person who violates Subsection (2)(a), in addition to any other applicable penalties arising out of the incident, shall have the person's operator license denied or suspended as provided in Subsection (8).

(3) (a) When a peace officer has reasonable grounds to believe that a person may be violating or has violated Subsection (2), the peace officer may, in connection with arresting the person for a violation of Section 32B-4-409, request that the person submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6a-520.

(b) The peace officer shall advise a person prior to the person's submission to a chemical test that a test result indicating a violation of Subsection (2)(a) will result in denial or suspension of the person's license to operate a motor vehicle or a refusal to issue a license.

(c) If the person submits to a chemical test and the test results indicate a blood, breath, or urine alcohol content in violation of Subsection (2)(a), or if a peace officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Subsection (2)(a), a peace officer shall, on behalf of the division and within 24 hours of the arrest, give notice of the division's intention to deny or suspend the person's license to operate a vehicle or refusal to issue a license under this section.

(4) When a peace officer gives notice on behalf of the division, the peace officer shall:

(a) take the Utah license certificate or permit, if any, of the operator;

(b) issue a temporary license certificate effective for only 29 days from the date of arrest if the driver had a valid operator's license; and

(c) supply to the operator, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.

(5) A citation issued by a peace officer may, if provided in a manner specified by the division, also serve as the temporary license certificate under Subsection (4)(b).

(6) As a matter of procedure, a peace officer shall send to the division within 10 calendar days after the day on which notice is provided:

(a) the person's driver license certificate, if any;

(b) a copy of the citation issued for the offense;

(c) a signed report in a manner specified by the Driver License Division indicating the chemical test results, if any; and

(d) any other basis for a peace officer's determination that the person has violated Subsection (2).

(7) (a) (i) Upon request in a manner specified by the division, the Driver License Division shall grant to the person an opportunity to be heard within 29 days after the date of arrest under Section 32B-4-409.

(ii) The request shall be made within 10 calendar days of the day on which notice is provided.

(b) (i) Except as provided in Subsection (7)(b)(ii), a hearing, if held, shall be before the division in:

(A) the county in which the arrest occurred; or

(B) a county that is adjacent to the county in which the arrest occurred.

(ii) The division may hold a hearing in some other county if the division and the person both agree.

(c) The hearing shall be documented and shall cover the issues of:

(i) whether a peace officer had reasonable grounds to believe the person was operating a motor vehicle or motorboat in violation of Subsection (2)(a);

(ii) whether the person refused to submit to the test; and

(iii) the test results, if any.

(d) In connection with a hearing, the division or its authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and records as defined in Section 46-4-102.

(e) One or more members of the division may conduct the hearing.

(f) Any decision made after a hearing before any number of the members of the division is as valid as if made after a hearing before the full membership of the division.

(8) If, after a hearing, the division determines that a peace officer had reasonable grounds to believe that the person was driving a motor vehicle in violation of Subsection (2)(a), if the person fails to appear before the division as required in the notice, or if the person does not request a hearing under this section, the division shall for a person under 21 years of age on the date of arrest:

(a) deny the person's license until the person complies with Subsection (12)(b)(i) but for a period of not less than six months beginning on the 30th day after the date of arrest for a first offense under Subsection (2)(a) committed on or after May 14, 2013;

(b) suspend the person's license until the person complies with Subsection (12)(b)(i) and until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 30th day after the date of arrest for a second or subsequent offense under Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a prior denial or suspension;

(c) deny the person's application for a license or learner's permit until the person complies with Subsection (12)(b)(i) but for a period of not less than six months if:

(i) the person has not been issued an operator license; and

(ii) the suspension is for a first offense under Subsection (2)(a) committed on or after July 1, 2009;

(d) deny the person's application for a license or learner's permit until the person complies with Subsection (12)(b)(i) and until the person is 21 years of age or for a period of two years, whichever is longer, if:

(i) the person has not been issued an operator license; and

(ii) the suspension is for a second or subsequent offense under Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a prior denial or suspension; or

(e) deny or suspend a person's license for the denial and suspension periods in effect:

(i) prior to July 1, 2009, for a violation under Subsection (2)(a) that was committed prior to July 1, 2009;

(ii) from July 1, 2009, through June 30, 2011, if the person was 20 years 6 months of age or older but under 21 years of age at the time of arrest and the conviction under Subsection (2) is for an offense that was committed on or after July 1,

2009, and prior to July 1, 2011; or

(iii) prior to May 14, 2013, for a violation under Subsection (2)(a) that was committed prior to May 14, 2013.

(9) (a) Notwithstanding the provisions in Subsection (8)(e)(iii), the division shall shorten a person's one-year license suspension or denial period that is currently in effect to a six-month suspension or denial period if:

(i) the driver was under the age of 19 at the time of arrest;

(ii) the offense was a first offense that was committed prior to May 14, 2013; and

(iii) the suspension or denial under Subsection (8)(e)(iii) was based on the same occurrence upon which the following written verifications are based:

(A) a court order shortening the driver license suspension for a violation of Section 41-6a-502 pursuant to Subsection 41-6a-509(8);

(B) a court order shortening the driver license suspension for a violation of Section 41-6a-517 pursuant to Subsection 41-6a-517(11);

(C) a court order shortening the driver license suspension for a violation of Section 32B-4-409;

(D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409; or

(G) other written documentation acceptable to the division.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing requirements for acceptable documentation to shorten a person's driver license suspension or denial period under this Subsection (9).

(c) If a person's license sanction is shortened under this Subsection (9), the person is required to pay the license reinstatement fees under Subsections 53-3-105(23) and (24).

(10) (a) (i) Following denial or suspension the division shall assess against a person, in addition to any fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover administrative costs.

(ii) This fee shall be canceled if the person obtains an unappealed division hearing or court decision that the suspension was not proper.

(b) A person whose operator license has been denied, suspended, or postponed by the division under this section following an administrative hearing may file a petition within 30 days after the suspension for a hearing on the matter which, if held, is governed by Section 53-3-224.

(11) After reinstatement of an operator license for a first offense under this section, a report authorized under Section 53-3-104 may not contain evidence of the denial or suspension of the person's operator license under this section if the person has not been convicted of any other offense for which the denial or suspension may be extended.

(12) (a) In addition to the penalties in Subsection (8), a person who violates

Subsection (2)(a) shall:

(i) obtain an assessment and recommendation for appropriate action from a substance abuse program, but any associated costs shall be the person's responsibility; or

(ii) be referred by the division to the local substance abuse authority for an assessment and recommendation for appropriate action.

(b) (i) Reinstatement of the person's operator license or the right to obtain an operator license within five years of the effective date of the license sanction under Subsection (8) is contingent upon successful completion of the action recommended by the local substance abuse authority or the substance abuse program.

(ii) The local substance abuse authority's or the substance abuse program's recommended action shall be determined by an assessment of the person's alcohol abuse and may include:

(A) a targeted education and prevention program;

(B) an early intervention program; or

(C) a substance abuse treatment program.

(iii) Successful completion of the recommended action shall be determined by standards established by the Division of Substance Abuse and Mental Health.

(c) At the conclusion of the penalty period imposed under Subsection (2), the local substance abuse authority or the substance abuse program shall notify the division of the person's status regarding completion of the recommended action.

(d) The local substance abuse authorities and the substance abuse programs shall cooperate with the division in:

(i) conducting the assessments;

(ii) making appropriate recommendations for action; and

(iii) notifying the division about the person's status regarding completion of the recommended action.

(e) (i) The local substance abuse authority is responsible for the cost of the assessment of the person's alcohol abuse, if the assessment is conducted by the local substance abuse authority.

(ii) The local substance abuse authority or a substance abuse program selected by a person is responsible for:

(A) conducting an assessment of the person's alcohol abuse; and

(B) for making a referral to an appropriate program on the basis of the findings of the assessment.

(iii) (A) The person who violated Subsection (2)(a) is responsible for all costs and fees associated with the recommended program to which the person selected or is referred.

(B) The costs and fees under Subsection (12)(e)(iii)(A) shall be based on a sliding scale consistent with the local substance abuse authority's policies and practices regarding fees for services or determined by the substance abuse program.

Amended by Chapter 7, 2014 General Session

**53-3-232. Conditional license -- May not operate a vehicle or motorboat with alcohol in body -- Penalty.**

(1) As used in this section, "qualifying conviction" means:

(a) a conviction of a violation of Section 41-6a-502, Section 41-6a-517, a local ordinance which complies with the requirements of Subsection 41-6a-510(1), Section 76-5-207, or of alcohol-related reckless driving as described under Subsection 41-6a-512(1);

(b) a revocation under Section 41-6a-521 if the revocation is not based on the same arrest as a conviction under Subsection (1)(a); or

(c) a violation of Subsection (3).

(2) (a) Until June 30, 2005, the division may only issue, reinstate, or renew a driver license in the form of a no alcohol conditional license to a person who has a qualifying conviction for a period of:

(i) two years after issuance of a Utah driver license or permit following a first qualifying conviction for an offense, the arrest for which occurred within the previous 10 years; and

(ii) 10 years after issuance of a Utah driver license or permit following a second or subsequent qualifying conviction for an offense, the arrest for which occurred within the previous 10 years.

(b) Beginning on July 1, 2005, the division may not issue, reinstate, or renew a driver license in the form of a no alcohol conditional license.

(3) A no alcohol conditional license shall be issued on the condition that the person may not operate or be in actual physical control of a vehicle or motorboat in this state with any alcohol in the person's body.

(4) It is a class B misdemeanor for a person who has been issued a no alcohol conditional license to operate or be in actual physical control of a vehicle or motorboat in this state in violation of Subsection (3).

Amended by Chapter 2, 2005 General Session
Amended by Chapter 91, 2005 General Session
Amended by Chapter 220, 2005 General Session

**53-3-234. Driver license application -- Selective Service Registration -- Statement.**

(1) The following information for each male United States citizen or immigrant under the age of 26 shall be electronically transmitted by the division to the Selective Service System:

(a) name;

(b) address;

(c) Social Security number; and

(d) date of birth.

(2) Each application for any type of license to operate a motor vehicle in this state shall contain the following statement which must be acknowledged by the applicant:

"By submitting this application, I am consenting to registration with the Selective Service System, if required by federal law."

(3) Refusal to consent to the release of information to the Selective Service System shall result in the denial of the license.

Enacted by Chapter 125, 2001 General Session

**53-3-301. Short title.**

This part is known as the "Impaired Persons Licensing Act."

Enacted by Chapter 234, 1993 General Session

**53-3-302. Definitions.**

As used in this part:

(1) "Board" means the Driver License Medical Advisory Board created in Section 53-3-303.

(2) "Health care professional" means a physician or surgeon licensed to practice medicine in the state, or when recommended by the Medical Advisory Board, may include other health care professionals licensed to conduct physical examinations in this state.

(3) (a) "Impaired person" means a person who has a mental, emotional, or nonstable physical disability or disease that may impair the person's ability to exercise reasonable and ordinary control at all times over a motor vehicle while driving on the highways.

(b) "Impaired person" does not include a person having a nonprogressive or stable physical impairment that is objectively observable and that may be evaluated by a functional driving examination.

Enacted by Chapter 234, 1993 General Session

**53-3-303. Driver License Medical Advisory Board -- Membership -- Guidelines for licensing impaired persons -- Recommendations to division.**

(1) There is created within the division the Driver License Medical Advisory Board.

(2) (a) The board is comprised of three regular members appointed by the Commissioner of Public Safety to four-year terms.

(b) The board shall be assisted by expert panel members nominated by the board as necessary and as approved by the Commissioner of Public Safety.

(c) Notwithstanding the requirements of Subsection (2)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(e) The expert panel members shall recommend medical standards in the areas of the panel members' special competence for determining the physical, mental, and emotional capabilities of applicants for licenses and licensees.

(3) In reviewing individual cases, a panel acting with the authority of the board consists of at least two members, of which at least one is a regular board member.

(4) The director of the division or his designee serves as secretary to the board

and its panels.

(5) Members of the board and expert panel members nominated by them shall be health care professionals.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The board shall meet from time to time when called by the director of the division.

(8) (a) The board shall recommend guidelines and standards for determining the physical, mental, and emotional capabilities of applicants for licenses and for licensees.

(b) The guidelines and standards are applicable to all Utah licensees and for all individuals who hold learner permits and are participating in driving activities in all forms of driver education.

(c) The guidelines and standards shall be published by the division.

(9) If the division has reason to believe that an applicant or licensee is an impaired person, it may:

(a) act upon the matter based upon the published guidelines and standards; or

(b) convene a panel to consider the matter and submit findings and a recommendation; the division shall consider the recommendation along with other evidence in determining whether a license should be suspended, revoked, denied, disqualified, canceled, or restricted.

(10) (a) If the division has acted under Subsection (9) to suspend, revoke, deny, disqualify, cancel, or restrict the driving privilege without the convening of a panel, the affected applicant or licensee may within 10 days of receiving notice of the action request in a manner prescribed by the division a review of the division's action by a panel.

(b) The panel shall review the matters and make written findings and conclusions.

(c) The division shall affirm or modify its previous action.

(11) (a) Actions of the division are subject to judicial review as provided in this part.

(b) The guidelines, standards, findings, conclusions, and recommendations of the board or of a panel are admissible as evidence in any judicial review.

(12) Members of the board and its panels incur no liability for recommendations, findings, conclusions, or for other acts performed in good faith and incidental to membership on the board or a panel.

(13) The division shall provide forms for the use of health care professionals in depicting the medical history of any physical, mental, or emotional impairment affecting the applicant's or licensee's ability to drive a motor vehicle.

(14) (a) (i) Individuals who apply for or hold a license and have, or develop, or suspect that they have developed a physical, mental, or emotional impairment that may affect driving safety are responsible for reporting this to the division or its agent.

(ii) If there is uncertainty, the individual is expected to seek competent medical

evaluation and advice as to the significance of the impairment as it relates to driving safety, and to refrain from driving until a clarification is made.

(b) Health care professionals who care for patients with physical, mental, or emotional impairments that may affect their driving safety, whether defined by published guidelines and standards or not, are responsible for making available to their patients without reservation their recommendations and appropriate information related to driving safety and responsibilities.

(c) A health care professional or other person who becomes aware of a physical, mental, or emotional impairment that appears to present an imminent threat to driving safety and reports this information to the division in good faith has immunity from any damages claimed as a result of making the report.

Amended by Chapter 286, 2010 General Session

**53-3-303.5. Driver License Medical Advisory Board -- Medical waivers.**

(1) The Driver License Medical Advisory Board shall:

(a) advise the director of the division; and

(b) establish and recommend in a manner specified by the board functional ability profile guidelines and standards for determining the physical, mental, and emotional capabilities of applicants for specific types of licenses, appropriate to various driving abilities.

(2) (a) The Driver License Medical Advisory Board shall establish fitness standards, including provisions for a waiver of specified federal driver's physical qualifications under 49 CFR 391.41, for intrastate commercial driving privileges.

(b) The standards under this Subsection (2) may only be implemented if the United States Department of Transportation (USDOT) will not impose any sanctions, including funding sanctions, against the state.

(3) In case of uncertainty of interpretation of these guidelines and standards, or in special circumstances, applicants may request a review of any division decision by a panel of board members. All of the actions of the director and board are subject to judicial review.

(4) (a) If a person applies for a waiver established under Subsection (2), the applicant shall bear any costs directly associated with the cost of administration of the waiver program, with respect to the applicant's application, in addition to any fees required under Section 53-3-105.

(b) The division shall establish any additional fee necessary to administer the license under this Subsection (4) in accordance with Section 63J-1-504.

Amended by Chapter 183, 2009 General Session

**53-3-304. Licensing of persons with impairments -- Medical review -- Restricted license -- Procedures.**

(1) (a) If the division has reason to believe that an applicant for a license or a mobility vehicle permit is a person with an impairment, the division may require one or both of the following:

(i) a physical examination of the applicant by a health care professional and the

submittal by the health care professional of a signed medical report indicating the results of the physical examination;

(ii) a follow-up medical review of the applicant by a health care professional and completion of a medical report at intervals established by the division under standards recommended by the board.

(b) The format of the medical report required under Subsection (1)(a) shall be devised by the division with the advice of the board and shall elicit the necessary medical information to determine whether it would be a public safety hazard to permit the applicant to drive a motor vehicle or mobility vehicle on the highways.

(2) (a) The division may grant a restricted license to a person with an impairment who is otherwise qualified to obtain a license.

(b) The division may grant a restricted mobility vehicle permit to a person with an impairment who is otherwise qualified to obtain a mobility vehicle permit.

(c) The license or mobility vehicle permit continues in effect until its expiration date so long as the licensee complies with the requirements set forth by the division.

(d) The license or mobility vehicle permit renewal is subject to the conditions of this section.

(e) Any physical, mental, or emotional impairment of the applicant that in the opinion of the division does not affect the applicant's ability to exercise reasonable and ordinary control at all times in driving a motor vehicle upon the highway, does not prevent granting a license or mobility vehicle permit to the applicant.

(3) (a) If an examination is required under this section, the division is not bound by the recommendation of the examining health care professional but shall give fair consideration to the recommendation in acting upon the application. The criterion is whether upon all the evidence it is safe to permit the applicant to drive a motor vehicle or mobility vehicle.

(b) In deciding whether to grant or deny a license or mobility vehicle permit, the division may be guided by the opinion of experts in the fields of diagnosing and treating mental, physical, or emotional disabilities and may take into consideration any other factors that bear on the issue of public safety.

(4) Information provided under this section relating to physical, mental, or emotional impairment is classified under Title 63G, Chapter 2, Government Records Access and Management Act.

Amended by Chapter 225, 2014 General Session

**53-3-305. Notification of impaired person to the division -- Confidentiality of notification -- Rulemaking -- Penalty.**

(1) A person who is aware of a physical, mental, or emotional impairment of another person that appears to present an imminent threat to driving safety may notify the division of the impairment.

(2) If the division determines that the notification made under Subsection (1) was made in good faith, the division may require the person who is the subject of the notification to submit to:

(a) one or more medical reports under Subsection 53-3-304(1);

(b) a physical and mental fitness test under Section 53-3-206;

(c) the knowledge test required by the division; or
(d) the skills test approved by the division.
(3) (a) A person making a notification under Subsection (1) may request that the notification be confidential.
(b) If requested by the person notifying the division, the notification provided under this section relating to a physical, mental, or emotional impairment is classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act, and the identity of the person notifying the division may not be disclosed by the division.
(c) The division may not accept an anonymous notification under this section.
(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing procedures for making a protected notification under this section to ensure that the notification is made in good faith.
(5) A person who makes a notification with the intent to annoy, intimidate, or harass the person that is the subject of the notification is guilty of a class C misdemeanor.

Enacted by Chapter 88, 2008 General Session

**53-3-401. Short title.**
This part is known as the "Uniform Commercial Driver License Act."

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-402. Definitions.**
As used in this part:
(1) "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol.
(2) "Alcohol concentration" means the number of grams of alcohol per:
(a) 100 milliliters of blood;
(b) 210 liters of breath; or
(c) 67 milliliters of urine.
(3) "Commercial driver instruction permit" or "CDIP" means a permit issued under Section 53-3-408.
(4) "Commercial driver license information system" or "CDLIS" means the information system established under Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, as a clearinghouse for information related to the licensing and identification of commercial motor vehicle drivers.
(5) "Controlled substance" means any substance so classified under Section 102(6) of the Controlled Substance Act, 21 U.S.C. 802(6), and includes all substances listed on the current Schedules I through V of 21 C.F.R., Part 1308 as they may be revised from time to time.
(6) "Employee" means any driver of a commercial motor vehicle, including:
(a) full-time, regularly employed drivers;
(b) casual, intermittent, or occasional drivers;
(c) leased drivers; and

(d) independent, owner-operator contractors while in the course of driving a commercial motor vehicle who are either directly employed by or under lease to an employer.

(7) "Employer" means any individual or person including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns an individual to drive a commercial motor vehicle.

(8) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term of more than one year.

(9) "Foreign jurisdiction" means any jurisdiction other than the United States or a state of the United States.

(10) "Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the maximum loaded weight of a single vehicle or GVWR of a combination or articulated vehicle, and includes the GVWR of the power unit plus the total weight of all towed units and the loads on those units.

(11) "Hazardous material" has the same meaning as defined under 49 C.F.R. Sec. 383.5.

(12) "Imminent hazard" means the existence of a condition, practice, or violation that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment is expected to occur immediately, or before the condition, practice, or violation can be abated.

(13) "Medical certification status" means the medical certification of a commercial driver license holder or commercial motor vehicle operator in any of the following categories:

(a) Non-excepted interstate. A person shall certify that the person:

(i) operates or expects to operate in interstate commerce;

(ii) is both subject to and meets the qualification requirements under 49 C.F.R. Part 391; and

(iii) is required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45.

(b) Excepted interstate. A person shall certify that the person:

(i) operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. Sec. 390.3(f), 391.2, 391.68, or 398.3 from all or parts of the qualification requirements of 49 C.F.R. Part 391; and

(ii) is not required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45.

(c) Non-excepted intrastate. A person shall certify that the person:

(i) operates only in intrastate commerce; and

(ii) is subject to state driver qualification requirements under Sections 53-3-303.5, 53-3-304, and 53-3-414.

(d) Excepted intrastate. A person shall certify that the person:

(i) operates in intrastate commerce; and

(ii) engages exclusively in transportation or operations excepted from all parts of the state driver qualification requirements.

(14) "NDR" means the National Driver Register.

(15) "Nonresident CDL" means a commercial driver license issued by a state to

an individual who resides in a foreign jurisdiction.

(16) "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.

(17) "Port-of-entry agent" has the same meaning as provided in Section 72-1-102.

(18) "Serious traffic violation" means a conviction of any of the following:

(a) speeding 15 or more miles per hour above the posted speed limit;

(b) reckless driving as defined by state or local law;

(c) improper or erratic traffic lane changes;

(d) following the vehicle ahead too closely;

(e) any other motor vehicle traffic law which arises in connection with a fatal traffic accident;

(f) operating a commercial motor vehicle without a CDL or a CDIP;

(g) operating a commercial motor vehicle without the proper class of CDL or CDL endorsement for the type of vehicle group being operated or for the passengers or cargo being transported;

(h) operating a commercial motor vehicle without a CDL or CDIP license certificate in the driver's possession in violation of Section 53-3-404;

(i) using a handheld wireless communication device in violation of Section 41-6a-1716 while operating a commercial motor vehicle; or

(j) using a hand-held mobile telephone while operating a commercial motor vehicle in violation of 49 C.F.R. Sec. 392.82.

(19) "State" means a state of the United States, the District of Columbia, any province or territory of Canada, or Mexico.

(20) "United States" means the 50 states and the District of Columbia.

Amended by Chapter 411, 2013 General Session

**53-3-403. Superseding clause.**

This part supersedes the general licensing provisions of state law contained in Parts 1 and 2 of this chapter.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-404. Requirements to drive commercial motor vehicle.**

(1) A person may not drive a commercial motor vehicle, unless the person has been issued and is in immediate possession of:

(a) a CDL license certificate valid for the commercial motor vehicle the person is driving; or

(b) a valid CDIP license certificate in accordance with Section 53-3-408.

(2) (a) A licensee shall display a CDL or CDIP license certificate upon demand of a justice court judge, a peace officer, a special function officer, a port-of-entry officer, or a designee of the division.

(b) It is a defense to a charge under this section that the person charged produces in court a CDL or CDIP license certificate that is issued to the person and valid at the time of the citation or arrest.

(3) A person may not drive a commercial motor vehicle if the person's privilege to drive a commercial motor vehicle is:
(a) suspended, revoked, or canceled;
(b) subject to a disqualification;
(c) subject to an out-of-service order; or
(d) not medically certified as defined in Section 53-3-402.
(4) A person may not drive a commercial motor vehicle if the commercial motor vehicle is subject to an out-of-service order.

Amended by Chapter 190, 2011 General Session

**53-3-405. Authority to drive commercial motor vehicle in Utah.**
(1) A person who holds or is required to hold a CDL may drive a commercial motor vehicle in this state if:
(a) the person has a CDL issued by any state in accordance with the minimum federal standards for the issuance of commercial motor vehicle driver licenses;
(b) the person's license is not denied, suspended, revoked, or canceled;
(c) the person is not disqualified from driving a commercial motor vehicle; and
(d) the person has a valid medical certification status.
(2) This section supersedes any provision to the contrary.

Amended by Chapter 190, 2011 General Session

**53-3-406. Commercial motor vehicle driver -- Only one license.**
Any person who drives a commercial motor vehicle may only have one license.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-407. Qualifications for commercial driver license -- Fee -- Third parties may administer skills test.**
(1) (a) As used in this section, "CDL driver training school" means a business enterprise conducted by an individual, association, partnership, or corporation that:
(i) educates and trains persons, either practically or theoretically, or both, to drive commercial motor vehicles; and
(ii) prepares an applicant for an examination under Subsection (2)(a)(ii) or (2)(b)(i)(B).
(b) A CDL driver training school may charge a consideration or tuition for the services provided under Subsection (1)(a).
(2) (a) Except as provided in Subsection (2)(b) and (c), a CDL may be issued only to a person who:
(i) is a resident of this state;
(ii) has passed a test of knowledge and skills for driving a commercial motor vehicle, that complies with minimum standards established by federal regulation in 49 C.F.R. Part 383, Subparts G and H; and
(iii) has complied with all requirements of 49 C.F.R. Part 383 and other applicable state laws and federal regulations.

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

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

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

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

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

(A) is valid for 60 days; and

(B) may not be renewed or extended.

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

(c) The department shall waive the skills test specified in this section for a commercial driver license applicant who, subject to the limitations and requirements of 49 C.F.R. Sec. 383.77, meets all certifications required for a waiver under 49 C.F.R. Sec. 383.77 and certifies that the applicant:

(i) is a member of the active or reserve components of any branch or unit of the armed forces or a veteran who received an honorable or general discharge from any branch or unit of the active or reserve components of the United States Armed Forces;

(ii) is or was regularly employed in a position in the armed forces requiring operation of a commercial motor vehicle; and

(iii) has legally operated, while on active duty for at least two years immediately preceding application for a commercial driver license, a vehicle representative of the commercial motor vehicle the driver applicant operates or expects to operate.

(d) An applicant who requests a waiver under Subsection (2)(c) shall present a completed application for a military skills test waiver at the time of the request.

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

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

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

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

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

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

(7) The division may waive the skills test required under this section if it determines that the applicant meets the requirements of 49 C.F.R. Sec. 383.77.

Amended by Chapter 85, 2014 General Session

**53-3-407.1. Commercial driver license third party tester or third party examiner license -- Fingerprint background check required.**

(1) A commercial driver license third party tester or commercial driver license third party examiner shall be licensed by the division to be eligible to administer the commercial driver license skills tests.

(2) (a) An applicant for a commercial driver license third party tester or third party examiner license shall submit fingerprints in a form acceptable to the division at the time the license application is filed and shall consent to a fingerprint background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(b) The division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check for each commercial driver license third party tester or third party examiner applicant through the national criminal history system or any successor system.

(c) The Utah Bureau of Criminal Identification shall release to the division all information received in response to the division's request under this Subsection (2).

(d) A commercial driver license third party tester or third party examiner license may not be issued under this section until the criminal background check required under this Subsection (2) has been completed and reviewed by the division.

(e) In addition to any fees imposed under this chapter, the division shall:

(i) impose on individuals submitting fingerprints in accordance with this Subsection (2) the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification provides under this section; and

(ii) remit the fees collected under this Subsection (2)(e) to the Bureau of Criminal Identification.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing:

(a) minimum standards for a commercial driver license third party tester or third party examiner license;

(b) procedures for an applicant to apply for a commercial driver license third party tester or third party examiner license;

(c) minimum standards for the commercial driver license skills test; and

(d) procedures to enable a licensed commercial driver license third party tester or commercial driver license third party examiner to administer or process a commercial driver license skills test for an applicant to receive a commercial driver license.

Enacted by Chapter 411, 2013 General Session

**53-3-408. Qualifications for commercial driver instruction permit.**

(1) The division may issue a CDIP to a person who:

(a) holds a valid license;

(b) has at least one year of driving experience; and

(c) has passed the vision and knowledge test for the class of license for which

he is applying.

(2) A CDIP may be:

(a) issued only for a period not to exceed six months; and

(b) renewed or issued again only once within a two-year period.

(3) The holder of a CDIP may drive a commercial motor vehicle on a highway only when accompanied by a person who:

(a) (i) holds a CDL valid for the type of commercial motor vehicle driven; or

(ii) is certified by the division to administer driver licensing examinations to CDL applicants; and

(b) occupies a seat beside the individual for the purpose of:

(i) giving the driver instruction regarding the driving of the commercial motor vehicle; or

(ii) administering a driver licensing examination to a CDL applicant.

(4) A CDL or CDIP may not be issued to a person:

(a) subject to disqualification from driving a commercial motor vehicle; or

(b) whose license is suspended, revoked, or canceled in any state.

(5) A CDL or CDIP may not be issued to a person until the person has surrendered all license certificates the person holds to the division for cancellation.

Amended by Chapter 201, 2006 General Session

**53-3-410. Applicant information required for CDIP and CDL -- State resident to have state CDL.**

(1) The application for a CDL, limited-term CDL, or CDIP shall include the following information regarding the applicant:

(a) full legal name;

(b) current mailing address;

(c) Utah residential address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b);

(d) physical description, including sex, height, weight, and eye color;

(e) date of birth;

(f) documentary evidence of the applicant's valid Social Security number;

(g) a complete list of all states in which the applicant was issued a driver license in the previous 10 years;

(h) the applicant's signature;

(i) evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(i) that a person is:

(A) a United States Citizen;

(B) a United States national; or

(C) a legal permanent resident alien; or

(ii) of the applicant's:

(A) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(B) pending or approved application for asylum in the United States;

(C) admission into the United States as a refugee;

(D) pending or approved application for temporary protected status in the United States;

(E) approved deferred action status;

(F) pending application for adjustment of status to legal permanent resident or conditional resident; or

(G) conditional permanent resident alien status; and

(j) beginning on January 30, 2012, a medical certification status.

(2) An application under this section shall also include all certifications required by 49 C.F.R., Part 383.71.

(3) When the holder of a license under this part changes the holder's name, mailing address, or residence, the holder shall make application for a duplicate license within 30 days of the change.

(4) A person who has been a resident of this state for 30 consecutive days may not drive a commercial motor vehicle under the authority of a commercial driver license issued by another jurisdiction.

Amended by Chapter 190, 2011 General Session
Amended by Chapter 415, 2011 General Session

**53-3-410.1. Medical certification requirements.**

(1) A person whose medical certification status is:

(a) "non-excepted interstate" under Subsection 53-3-402(13)(a) is required to provide the division a medical self certification and an updated medical examiner's certificate under 49 C.F.R. Sec. 391.45 upon request by the division;

(b) "excepted interstate" under Subsection 53-3-402(13)(b) is required to provide to the division a medical self certification upon request by the division;

(c) "non-excepted intrastate" under Subsection 53-3-402(13)(c) is required to, upon request by the division:

(i) provide to the division a medical self certification; and

(ii) comply with the requirements of Section 53-3-303.5; or

(d) "excepted intrastate" under Subsection 53-3-402(13)(b) is required to, upon request by the division:

(i) provide to the division a medical self certification; and

(ii) (A) provide to the division an updated medical examiner's certificate under 49 C.F.R. Sec. 391.45; or

(B) comply with the requirements of Section 53-3-303.5.

(2) A request by the division for a person to comply with Subsection (1) shall correspond with the expiration of the previously submitted medical examiner's certificate.

(3) If a person fails to comply with a request under this section, the person shall be required to downgrade the person's CDL to a class D license.

(4) Failure to comply with the requirement of this section shall result in the denial of the license under Section 53-3-221.

Amended by Chapter 411, 2013 General Session

**53-3-411. Description of CDL -- Information to be included.**

(1) The CDL certificate shall be printed with the identifying words "Commercial Driver License" or "CDL".

(2) To the maximum extent practicable, the CDL certificate shall be resistant to alteration.

(3) The CDL certificate shall include:

(a) the legal name and principal place of residence of the holder;

(b) the holder's photograph in color;

(c) a physical description of the holder, including sex and height;

(d) the holder's birth date;

(e) the holder's Utah license certificate number;

(f) the holder's signature;

(g) the class or type of commercial motor vehicle or vehicles the holder is authorized to drive;

(h) any endorsements or restrictions to which the holder is subject;

(i) the name of the issuing state; and

(j) the dates between which the CDL is valid.

(4) The CDL may not include the holder's Social Security number.

Amended by Chapter 144, 2004 General Session

**53-3-412. CDL classifications, endorsements, and restrictions.**

(1) A CDL may be granted with the following classifications, endorsements, and restrictions:

(a) Classifications:

(i) Class A: any combination of vehicles with a GVWR of 26,001 pounds or more, if the GVWR of the one or more vehicles being towed is in excess of 10,000 pounds;

(ii) Class B: any single motor vehicle with a GVWR of 26,001 pounds or more, including that motor vehicle when towing a vehicle with a GVWR of 10,000 pounds or less; and

(iii) Class C: any single motor vehicle with a GVWR of less than 26,001 pounds or that motor vehicle when towing a vehicle with a GVWR of 10,000 pounds or less when the vehicle is designed:

(A) to carry 16 or more passengers, including the driver;

(B) as a school bus, and weighing less than 26,001 pounds GVWR; or

(C) to transport hazardous materials that requires the vehicle to be placarded under 49 C.F.R. Part 172, Subpart F.

(b) Endorsements:

(i) "H" authorizes the driver to drive a commercial motor vehicle transporting hazardous materials as defined in 49 C.F.R. Sec. 383.5.

(ii) "N" authorizes the driver to drive a tank vehicle.

(iii) "P" authorizes the driver to drive a motor vehicle designed to carry 16 or more passengers including the driver.

(iv) "S" authorizes the driver to transport preprimary, primary, or secondary school students from home to school, school to home, or to and from school-sponsored

events.

(v) "T" authorizes the driver to drive a commercial motor vehicle with a double or triple trailer.

(vi) "X" authorizes the driver to drive a tank vehicle and transport hazardous materials.

(c) Restrictions:

(i) "E" restricts the driver from driving a commercial motor vehicle with a manual transmission.

(ii) "K" restricts the driver to driving intrastate only any commercial motor vehicle as defined by 49 C.F.R. Parts 383 and 390.

(iii) "L" restricts the driver to driving a commercial motor vehicle not equipped with air brakes.

(iv) "J" provides for other CDL restrictions.

(v) "M" restricts a driver from transporting passengers using a class A bus.

(vi) "N" restricts a driver from transporting passengers using a class A or class B bus.

(vii) "O" restricts a driver from driving a commercial motor vehicle equipped with a tractor trailer.

(viii) (A) "V" indicates that the driver has been issued a variance by the Federal Motor Carrier Safety Administration in reference to the driver's medical certification status.

(B) A driver with a "V" restriction shall have the letter outlining the specifications for the variance in the driver's possession along with the driver's commercial driver license when operating a commercial motor vehicle.

(ix) "Z" restricts a driver from driving a commercial motor vehicle with non-fully equipped air brakes.

(2) A commercial driver instruction permit may be granted with the following classifications, endorsements, and restrictions:

(a) Classifications:

(i) Class A: any combination of vehicles with a GVWR of 26,001 pounds or more, if the GVWR of the one or more vehicles being towed is in excess of 10,000 pounds;

(ii) Class B: any single motor vehicle with a GVWR of 26,001 pounds or more, including that motor vehicle when towing a vehicle with a GVWR of 10,000 pounds or less; and

(iii) Class C: any single motor vehicle with a GVWR of less than 26,001 pounds or that motor vehicle when towing a vehicle with a GVWR of 10,000 pounds or less when the vehicle is designed:

(A) to carry 16 or more passengers, including the driver;

(B) as a school bus, and weighing less than 26,001 pounds GVWR; or

(C) to transport hazardous material that requires the vehicle to be placarded under 49 C.F.R. Part 172, Subpart F.

(b) Endorsements:

(i) "N" authorizes the driver to drive a tank vehicle. An "N" endorsement may only be issued with an "X" restriction.

(ii) "P" authorizes the driver to drive a motor vehicle designed to carry 16 or

more passengers including the driver. A "P" endorsement may only be issued with a "P" restriction.

(iii) "S" authorizes the driver to transport preprimary, primary, or secondary school students from home to school, school to home, or to and from school-sponsored events. An "S" endorsement may only be issued with a "P" restriction.

(c) Restrictions:

(i) "K" restricts the driver to driving intrastate only any commercial motor vehicle as defined by 49 C.F.R. Parts 383 and 390.

(ii) "L" restricts the driver to driving a commercial motor vehicle not equipped with air brakes.

(iii) "M" restricts a driver from transporting passengers using a class A bus.

(iv) "N" restricts a driver from transporting passengers using a class A or class B bus.

(v) "P" restricts a driver from having one or more passengers in the vehicle while driving a commercial motor vehicle bus unless the passenger is:

(A) a federal or state auditor or inspector;

(B) a test examiner;

(C) another trainee; or

(D) the CDL holder accompanying the CDIP holder as required in 49 C.F.R. Sec. 383.25.

(vi) (A) "V" indicates that the driver has been issued a variance by the Federal Motor Carrier Safety Administration in reference to the driver's medical certification status.

(B) A driver with a "V" restriction shall have the letter outlining the specifications for the variance in the driver's possession along with the driver's commercial driver license when operating a commercial motor vehicle.

(vii) "X" restricts a driver from having cargo in a commercial motor vehicle tank vehicle.

Amended by Chapter 411, 2013 General Session

**53-3-413. Issuance of CDL by division -- Driving record -- Expiration date -- Renewal -- Hazardous materials provision.**

(1) Before the division may grant a CDL, the division shall obtain the driving record information regarding the applicant through the CDLIS, the NDR, and from each state where the applicant has been licensed.

(2) The division shall notify the CDLIS and provide all information required to ensure identification of the CDL holder within 10 days after:

(a) issuing a CDL following application for an original, renewal, transfer, or upgrade of the CDL; or

(b) any change is made to the identifying information of a CDL holder.

(3) (a) The expiration date for a CDL is the birth date of the holder in the fifth year following the year of issuance of the CDL.

(b) A limited-term CDL expires on:

(i) the expiration date of the period of time of the individual's authorized stay in the United States or on the date provided in Subsection (3)(a), whichever is sooner; or

(ii) on the birth date of the applicant in the first year following the year that the limited-term CDL was issued if there is no definite end to the individual's period of authorized stay.

(c) An original CDL or a renewal to an original CDL expires on the birth date of the applicant in the first year following the year that the license was issued if the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(d) A CDL held by a person ordered to active duty and stationed outside Utah in any of the armed forces of the United States, which expires during the time period the person is stationed outside of the state, is valid until 90 days after the person has been discharged or has left the service, unless:

(i) the license is suspended, disqualified, denied, or has been cancelled or revoked by the division; or

(ii) the licensee updates the information or photograph on the license certificate.

(4) (a) The applicant for a renewal of a CDL shall complete the application form required by Section 53-3-410 and provide updated information and required certification.

(b) In addition to the requirements under Subsection (4)(a), the applicant for a renewal of a limited-term CDL shall present documentary evidence that the status by which the individual originally qualified for the limited-term CDL has been extended by the United States Citizenship and Immigration Services or other authorized agency of the United States Department of Homeland Security.

(5) The division shall distinguish a limited-term CDL by clearly indicating on the document:

(a) that it is temporary; and

(b) its expiration date.

(6) (a) The division may not issue a hazardous materials endorsement on a CDL unless the applicant meets the security threat assessment standards of the federal Transportation Security Administration.

(b) The division shall revoke the hazardous materials endorsement on a CDL upon receiving notice from the federal Transportation Security Administration that the person holding a hazardous materials endorsement does not meet Transportation Security Administration security threat assessment standards.

(c) To obtain an original hazardous materials endorsement or retain a hazardous materials endorsement upon CDL renewal or transfer, the applicant must take and pass the knowledge test for hazardous materials endorsement in addition to any other testing required by the division.

(7) Unless otherwise provided, the provisions, requirements, classes, endorsements, fees, restrictions, and sanctions under this code apply to a limited-term CDL in the same way as a CDL issued under this chapter.

Amended by Chapter 145, 2012 General Session

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

(1) (a) A person who holds or is required to hold a CDL is disqualified from

driving a commercial motor vehicle for a period of not less than one year effective seven days from the date of notice to the driver if convicted of a first offense of:

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

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

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

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

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

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

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

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

(vii) driving a commercial motor vehicle while the person's commercial driver license is disqualified in accordance with the provisions of this section for violating an offense described in this section; or

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

(b) The division shall subtract from any disqualification period under Subsection (1)(a)(i) the number of days for which a license was previously disqualified under Subsection (1)(a)(ii) or (14) if the previous disqualification was based on the same occurrence upon which the record of conviction is based.

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

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

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

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

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

(A) meets the standards of the division; and

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

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

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

(b) If a reinstated driver is subsequently convicted of another disqualifying

offense under this section, the driver is permanently disqualified for life and is ineligible to again apply for a reduction of the lifetime disqualification.

(5) A driver of a motor vehicle who holds or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if the driver uses a motor vehicle in the commission of any felony involving the manufacturing, distributing, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance and is ineligible to apply for a reduction of the lifetime disqualification under Subsection (4).

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

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

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

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

(i) occur within three years of each other;

(ii) arise from separate incidents; and

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

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

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

(i) 180 days if the driver is convicted of a first violation;

(ii) two years if, during any 10 year period, the driver is convicted of two violations of out-of-service orders in separate incidents;

(iii) three years but not more than five years if, during any 10 year period, the driver is convicted of three or more violations of out-of-service orders in separate incidents;

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

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

(b) A driver of a commercial motor vehicle who is convicted of a first violation of an out-of-service order is subject to a civil penalty of not less than $2,500.

(c) A driver of a commercial motor vehicle who is convicted of a second or subsequent violation of an out-of-service order is subject to a civil penalty of not less

than $5,000.

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

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

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

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

(c) one year if, during any three-year period, the driver is convicted of three or more violations in separate incidents.

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

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

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

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

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

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

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

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

(v) driver poses an imminent hazard.

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

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

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

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

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

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

(i) occur within three years of each other;

(ii) arise from separate incidents; and

(iii) result in a denial, suspension, cancellation, or revocation of the non-CDL driving privilege from at least one of the violations.

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

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

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

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

(i) reduced or dismissed in accordance with the plea in abeyance agreement; or

(ii) expunged under Section 77-40-105.

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

(a) one year; or

(b) three years if the violation occurred while transporting hazardous materials.

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

Amended by Chapter 411, 2013 General Session

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

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

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

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

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

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

(d) has more than one license;

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

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

(3) An employer may not knowingly allow, permit, require, or authorize a person

to violate a federal, state, or local law pertaining to railroad-highway grade crossings.

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

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

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

Amended by Chapter 196, 2010 General Session

**53-3-416. Driving record and other information to be provided to employer.**

(1) Each person who drives a commercial motor vehicle who has a CDL issued by this state and who is convicted of violating, in any type of motor vehicle, a state or local law relating to motor vehicle traffic, other than a parking violation, in this or any other state or jurisdiction, shall notify both the division and his current employer of the conviction within 30 days of the date of conviction.

(2) A driver shall notify his current employer before the end of the business day following the day he receives notice that:

(a) his CDL is suspended, revoked, or canceled by any state;

(b) he loses the privilege to drive a commercial motor vehicle in any state or other jurisdiction for any period; or

(c) he is disqualified from driving a commercial motor vehicle for any period.

(3) A person who applies to be a commercial motor vehicle driver shall at the time of application provide to the employer the following information for the 10 years prior to the date of application:

(a) a list of the names and addresses of the applicant's previous employers for which the applicant was a driver of a commercial motor vehicle as any part of his employment;

(b) the dates between which the applicant drove for each employer listed under Subsection (3)(a); and

(c) the reason the applicant's employment with each employer listed was terminated.

(4) (a) An applicant shall certify that all information provided under this section is true and complete to the best of his knowledge.

(b) An employer receiving information under this section may require that an applicant provide additional information.

Amended by Chapter 324, 2010 General Session

**53-3-417. Measurable alcohol amount consumed -- Penalty -- Refusal to take test for alcohol.**

(1) A person who holds or is required to hold a CDL may not drive a commercial motor vehicle while there is any measurable or detectable alcohol in his body.

(2) The division, a port-of-entry agent, or a peace officer shall place a person out-of-service for 24 consecutive hours who:

(a) violates Subsection (1); or

(b) refuses a request to submit to a test to determine the alcohol concentration of his blood, breath, or urine.

Amended by Chapter 282, 1998 General Session

**53-3-418. Prohibited alcohol level for drivers -- Procedures, including hearing.**

(1) A person who holds or is required to hold a CDL may not drive a commercial motor vehicle in this state if the person:

(a) has sufficient alcohol in the person's body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .04 grams or greater at the time of the test after the alleged driving of the commercial motor vehicle;

(b) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to degree that renders the person incapable of safely driving a commercial motor vehicle; or

(c) has a blood or breath alcohol concentration of .04 grams or greater at the time of driving the commercial motor vehicle.

(2) A person who holds or is required to hold a CDL and who drives a commercial motor vehicle in this state is considered to have given the person's consent to a test or tests of the person's blood, breath, or urine to determine the concentration of alcohol or the presence of other drugs in the person's physical system.

(3) If a peace officer or port-of-entry agent has reasonable cause to believe that a person may be violating this section, the peace officer or port-of-entry agent may request the person to submit to a chemical test to be administered in compliance with Section 41-6a-515.

(4) When a peace officer or port-of-entry agent requests a person to submit to a test under this section, the peace officer or port-of-entry agent shall advise the person that test results indicating .04 grams or greater alcohol concentration or refusal to submit to any test requested will result in the person's disqualification under Section 53-3-414 from driving a commercial motor vehicle.

(5) If test results under this section indicate .04 grams or greater of alcohol concentration or the person refuses to submit to any test requested under this section, a peace officer or port-of-entry agent shall, on behalf of the division and within 24 hours of the arrest, give the person notice of the division's intention to disqualify the person's privilege to drive a commercial motor vehicle.

(6) When a peace officer or port-of-entry agent gives notice under Subsection (5), the peace officer or port-of-entry agent shall:

(a) take any Utah license certificate or permit held by the driver;

(b) issue to the driver a temporary license certificate effective for 29 days from the date of arrest;

(c) provide the driver, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division; and

(d) issue a 24-hour out-of-service order.

(7) A notice of disqualification issued under Subsection (6) may serve also as the temporary license certificate under that subsection, if provided in a manner

specified by the division.

(8) As a matter of procedure, a peace officer or port-of-entry agent shall, within 10 calendar days after the day on which notice is provided, send to the division the person's license certificate, a copy of the notice, and a report signed by the peace officer or port-of-entry agent that indicates the results of any chemical test administered or that the person refused a test.

(9) (a) A person disqualified under this section has the right to a hearing regarding the disqualification.

(b) The request for the hearing shall be submitted to the division in a manner specified by the division and shall be made within 10 calendar days of the date the notice was issued. If requested, the hearing shall be conducted within 29 days after the date of arrest.

(10) (a) (i) Except as provided in Subsection (10)(a)(ii), a hearing held under this section shall be held before the division and in:

(A) the county where the notice was issued; or

(B) a county that is adjacent to the county where the notice was issued.

(ii) The division may hold a hearing in some other county if the division and the person both agree.

(b) The hearing shall be documented and shall determine:

(i) whether the peace officer or port-of-entry agent had reasonable grounds to believe the person had been driving a motor vehicle in violation of this section;

(ii) whether the person refused to submit to any requested test; and

(iii) any test results obtained.

(c) In connection with a hearing the division or its authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and documents.

(d) One or more members of the division may conduct the hearing.

(e) A decision made after a hearing before any number of members of the division is as valid as if the hearing were held before the full membership of the division.

(f) After a hearing under this section the division shall indicate by order if the person's CDL is disqualified.

(g) If the person for whom the hearing is held fails to appear before the division as required in the notice, the division shall indicate by order if the person's CDL is disqualified.

(11) (a) If the division disqualifies a person under this section following an administrative hearing, the person may petition for a hearing under Section 53-3-224.

(b) The petition shall be filed within 30 days after the division issues the disqualification.

(12) (a) A person who violates this section shall be punished in accordance with Section 53-3-414.

(b) (i) In accordance with Section 53-3-414, the first disqualification under this section shall be for one year, and a second disqualification shall be for life.

(ii) A disqualification under Section 53-3-414 begins on the 30th day after the date of arrest.

(13) (a) In addition to the fees imposed under Section 53-3-205 for reinstatement of a CDL, a fee under Section 53-3-105 to cover administrative costs

shall be paid before the driving privilege is reinstated.

(b) The fees under Sections 53-3-105 and 53-3-205 shall be canceled if an unappealed hearing at the division or court level determines the disqualification was not proper.

Amended by Chapter 40, 2009 General Session

**53-3-419. Nonresident driver violations reported to resident state.**

(1) When the division receives a report of the conviction or plea in abeyance of a nonresident holder of a CDL for a violation of a state law or local ordinance relating to traffic control, the division shall notify the driver licensing authority in the licensing state within five days of receipt of the report.

(2) This section does not apply to parking violations.

Amended by Chapter 190, 2011 General Session

**53-3-420. Driver's driving record available for certain purposes.**

The division shall provide full information regarding the driving record of any holder of a CDL within 10 days of a request to:

(1) the driver license administrator of any other state requesting that information;

(2) any employer or prospective employer of a person to drive a commercial motor vehicle upon request and payment of a fee under Section 53-3-105;

(3) insurers of commercial motor vehicle drivers upon request and payment of a fee under Section 53-3-105; and

(4) the Secretary of the United States Department of Transportation.

Amended by Chapter 53, 2007 General Session

**53-3-501. Short title.**

This part is known as the "Commercial Driver Training Schools Act."

Enacted by Chapter 234, 1993 General Session

**53-3-502. Definitions.**

As used in this part:

(1) (a) "Commercial driver training school" or "school" means a business enterprise conducted by an individual, association, partnership, or corporation for the education and training of persons, either practically or theoretically, or both, to:

(i) drive motor vehicles, including motorcycles; and

(ii) prepare an applicant for an examination given by the state for a license or learner permit.

(b) A commercial driver training school may charge a consideration or tuition for the services described under Subsection (1)(a).

(2) (a) "Commercial testing only school" means a business enterprise conducted by an individual, association, partnership, or corporation that:

(i) is designated by the division as a commercial testing only school;

(ii) employs instructors who are certified by the division; and
(iii) engages only in testing students for the purpose of obtaining a driver license.
(b) A commercial testing only school may conduct behind-the-wheel or observation instruction if approved by the division.
(c) A commercial testing only school may not engage in education or training of persons, either practically or theoretically, or both to drive motor vehicles, except when:
(i) counseling the driver following a test in reference to errors made during the administration of the test; or
(ii) conducting behind-the-wheel or observation instruction if approved by the division.
(d) A commercial testing only school may not test an individual who has completed any behind-the-wheel or observation instruction through the school with which the tester is employed.
(3) "Instructor" means a person, whether acting as an operator of a commercial driver training school or for a school for compensation, who:
(a) teaches, conducts classes of, gives demonstrations to, or supervises practice of persons learning to drive motor vehicles, including motorcycles;
(b) prepares persons to take an examination for a license or learner permit; or
(c) supervises the work of any other instructor.
(4) "School operator" means a person who:
(a) is certified as an instructor;
(b) has met the requirements for school operator status as established by the division;
(c) is authorized or certified to operate or manage a driver training school; and
(d) may supervise the work of another instructor.

Amended by Chapter 266, 2006 General Session

**53-3-503. Exemption for college, university, and high school programs.**
This part does not apply to any person giving driver training lessons to schools or classes conducted by colleges, universities, and high schools for regularly enrolled full-time students as a part of the normal program for the institutions.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-504. Licenses required -- Inspections.**
(1) A commercial driver training school or a commercial testing only school may be established only if the school applies for and obtains a license from the division.
(2) A person may act as an instructor or school operator only if the person applies for and obtains a license from the division.
(3) The division shall inspect the school facilities and equipment of applicants and licensees and examine applicants for instructor's licenses.
(4) The division shall administer and enforce this part.

Amended by Chapter 266, 2006 General Session

**53-3-505. School license -- Contents of rules.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules regarding the requirements for:

(a) a school license, including requirements concerning:

(i) locations;

(ii) equipment;

(iii) courses of instruction;

(iv) instructors;

(v) previous records of the school and instructors;

(vi) financial statements;

(vii) schedule of fees and charges;

(viii) character and reputation of the operators and instructors;

(ix) insurance as the commissioner determines necessary to protect the interests of the public; and

(x) other provisions the commissioner may prescribe for the protection of the public; and

(b) an instructor's license, including requirements concerning:

(i) moral character;

(ii) physical condition;

(iii) knowledge of the courses of instruction;

(iv) motor vehicle laws and safety principles and practices;

(v) previous personnel and employment records; and

(vi) other provisions the commissioner may prescribe for the protection of the public;

(c) applications for licenses; and

(d) minimum standards for:

(i) driving simulation devices that are fully interactive under Subsection 53-3-505.5(2)(b); and

(ii) driving simulation devices that are not fully interactive under Subsection 53-3-505.5(2)(c).

(2) Rules made by the commissioner shall require that a commercial driver training school offering motorcycle rider education meet or exceed the standards established by the Motorcycle Safety Foundation.

(3) Rules made by the commissioner shall require that an instructor of motorcycle rider education meet or exceed the standards for certification established by the Motorcycle Safety Foundation.

(4) The commissioner may call upon the state superintendent of public instruction for assistance in formulating appropriate rules.

Amended by Chapter 382, 2008 General Session

**53-3-505.5. Behind-the-wheel training requirements.**

(1) Except as provided under Subsection (2), a driver education course under this part or Title 53A, Chapter 13, Part 2, Driver Education Classes that is used to satisfy the driver training requirement under Section 53-3-204 shall require each student to complete at least six hours of behind-the-wheel driving a dual-control motor

vehicle with a certified instructor seated in the front seat next to the student driver.

(2) Up to three hours of the behind-the-wheel driving may be substituted as follows:

(a) two hours of range driving on an approved driving range under Section 53A-13-201 equals one hour of the behind-the-wheel driving required under Subsection (1);

(b) two hours of driving simulation practice on a driving simulation device that is fully interactive as set forth in rules made under Section 53-3-505, equals one hour of the behind-the-wheel driving required under Subsection (1); and

(c) four hours of driving simulation practice on a driving simulation device that is not fully interactive as set forth in rules made under Section 53-3-505, equals one hour of the behind-the-wheel driving required under Subsection (1), with a maximum of one hour of the behind-the-wheel driving required under Subsection (1) that may be substituted under this Subsection (2)(c).

(3) The behind-the-wheel driving required under Subsection (1) shall include, if feasible, driving on interstate and other multilane highways.

Enacted by Chapter 121, 2003 General Session

**53-3-506. License expiration and renewal -- Fee required -- Disposition of revenue.**

(1) (a) All commercial driver training school licenses, commercial testing only school licenses, school operator licenses, and instructor licenses:

(i) expire one year from the date of issuance; and

(ii) may be renewed upon application to the commissioner as prescribed by rule.

(b) Each application for an original or renewal school license, school operator license, or instructor license shall be accompanied by a fee determined by the department under Section 63J-1-504.

(c) A license fee may not be refunded if the license is rejected, suspended, or revoked.

(2) The license fees collected under this part shall be:

(a) placed in a fund designated as the "Commercial Driver Training Law Fund"; and

(b) used under the supervision and direction of the director of the Division of Finance for the administration of this part.

Amended by Chapter 183, 2009 General Session

**53-3-507. Licenses -- Cancellation, revocation, or refusal to issue or renew -- Ineligibility for license.**

(1) The department may cancel, revoke, or refuse to issue or renew a commercial driver training school, commercial testing only school, school operator, or instructor license if it finds that the licensee or applicant has not complied with, or has violated this part or any rule made by the division.

(2) A licensee:

(a) shall return a canceled or revoked license to the division; and

(b) is not eligible to apply for a license under this part until six months have elapsed since the date of a cancellation or revocation under this section.

Amended by Chapter 266, 2006 General Session

**53-3-508. Local boards of education may conduct class for adults.**

Local boards of education, with the consent of the division, may conduct classes in driver education for adult members of the district in those areas of the state where no commercial driver training course is available, and may charge a fee not to exceed the cost of the training.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-509. Violations -- Penalties.**

A violation of this part is a class C misdemeanor.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-510. Instructors certified to administer skills tests.**

(1) (a) The division shall establish procedures and standards to certify licensed instructors of driver training courses under this part to administer skills tests.

(b) An instructor may not administer a skills test under this section to a student that took the course from the same school or the same instructor.

(2) The division is the certifying authority.

(3) (a) Subject to Subsection (1), an instructor certified under this section may give skills tests designed for driver training courses authorized under this part.

(b) The division shall establish minimal standards for the test that is at least as difficult as those required to receive a class D operator's license under Title 53, Chapter 3, Uniform Driver License Act.

(c) A student who fails the skills test given by an instructor certified under this section may apply for a class D operator's license under Title 53, Chapter 3, Part 2, Driver Licensing Act, and complete the skills test at a division office.

(4) A student who successfully passes the test given by a certified driver training instructor under this section satisfies the driving parts of the test required for a class D operator's license.

(5) The division shall establish procedures to enable licensed commercial driver training schools to administer or process the skills test authorized under this section for a class D operator's license.

(6) The division shall establish the standards and procedures required under this section by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 382, 2008 General Session

**53-3-601. Short title.**

This part is known as the "Drivers' License Compact."

Enacted by Chapter 234, 1993 General Session

**53-3-602. Definitions.**

As used in this part:

(1) "Executive head" means the governor.

(2) "Licensing authority" means the department, the division, or both as the text may require.

Enacted by Chapter 234, 1993 General Session

**53-3-603. Ratification.**

The Drivers' License Compact is ratified for the state and is entered into with all other jurisdictions legally joining in the compact.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-604. Text of compact -- Party states to report traffic violations and exchange driving record information in home state of driver.**

DRIVERS' LICENSE COMPACT

ARTICLE I

Findings and Declaration of Policy

(1) The party states find that:

(a) The safety of their streets and highways is materially affected by the degree of compliance with state and local ordinances relating to the operation of motor vehicles.

(b) Violation of a law or ordinance relating to the operation of motor vehicles is evidence that the violator engages in conduct that is likely to endanger the safety of persons and property.

(c) A license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.

(2) It is the policy of each of the party states to:

(a) promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where the operators drive motor vehicles; and

(b) make the reciprocal recognition of licenses to drive and eligibility for licenses more just and equitable by considering the over-all compliance with motor vehicle laws, ordinances, and administrative rules and regulations as a condition precedent to renewing a license authorizing or permitting operation of a motor vehicle in any of the party states.

ARTICLE II

Definitions

As used in this compact:

(1) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(2) "Home state" means the state that has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.

(3) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle that is prohibited by state law, municipal ordinance, or administrative rule or regulation, or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed any offense, and which conviction or forfeiture is required to be reported to the licensing authority.

ARTICLE III

Reports of Conviction

(1) The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee.

(2) The report shall clearly:

(a) identify the person convicted;

(b) describe the violation specifying the section of the statute, code, or ordinance violated;

(c) identify the court in which action was taken;

(d) indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond, or other security; and

(e) include any special findings made in connection with the conviction.

ARTICLE IV

Effect of Conviction

(1) The licensing authority in the home state, for the purposes of suspension, revocation, or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to Article III of this compact, as it would if the conduct had occurred in the home state, in the case of convictions for:

(a) manslaughter or negligent homicide resulting from the operation of a motor vehicle;

(b) driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree that renders the driver incapable of safely driving a motor vehicle;

(c) any felony in the commission of which a motor vehicle is used; and

(d) failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another.

(2) As to other convictions, reported pursuant to Article III, the licensing authority in the home state shall give the same effect to the conduct as provided by laws of the home state.

(3) If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed in Subsection (1) of this article, the party state shall construe the denominations and descriptions appearing in Subsection (1) as applying to and identifying those offenses or violations of a substantially similar nature and the laws of the party state shall contain provisions as necessary to ensure that full force and effect is given in this article.

ARTICLE V

Applications for New Licenses

(1) Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a license to drive issued by any other party state.

(2) The licensing authority in the state where application is made shall not issue a license to drive to the applicant if the applicant:

(a) has held a license, but the license has been suspended by reason, in whole or in part, of a violation and if the suspension period has not terminated;

(b) has held a license, but the license has been revoked by reason, in whole or in part, of a violation and if the revocation has not terminated, except that after the expiration of one year from the date the license was revoked, the person may make application for a new license if permitted by law, which the authority may refuse to issue if, after investigation, the licensing authority determines that it will not be safe to grant to the person the privilege of driving a motor vehicle on the public highways; or

(c) is the holder of a license to drive issued by another party state and currently in force unless the applicant surrenders the license.

ARTICLE VI

Applicability of Other Laws

Except as expressly required by this compact, nothing in this part affects the right of any party state to apply any of its other laws relating to licenses to drive to any person or circumstance, or invalidates or prevents any driver license agreement or other cooperative arrangement between a party state and a nonparty state.

ARTICLE VII

Compact Administrator and Interchange of Information

(1) (a) The head of the licensing authority of each party state is the administrator of this compact for his state.

(b) The administrators, acting jointly have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(2) The administrator of each party state shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact.

ARTICLE VIII

Entry into Force and Withdrawal

(1) This compact shall enter into force and become effective as to any state when it has enacted the compact into law.

(2) Any party state may withdraw from this compact by enacting a statute repealing the compact, but no withdrawal takes effect until six months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.

(3) A withdrawal may not affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal.

ARTICLE IX

Construction and Severability

(1) This compact shall be liberally construed to effectuate the purposes of the compact.

(2) The provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability of the compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance is not affected by the holding.

(3) If this compact is held contrary to the constitution of any party state, the compact remains in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-605. Furnishing information and documents.**

The department shall furnish to the appropriate authorities of other party states any information or documents reasonably necessary to facilitate the administration of Articles III, IV, and V of the compact.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-606. Expenses of compact administrator.**

The compact administrator provided for in Article VII of the compact is not entitled to any additional compensation on account of his service as administrator, but is entitled to expenses incurred in connection with his duties and responsibilities as administrator, in the same manner as for expenses incurred in connection with any other duties or responsibilities of his office or employment.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-607. Court and agency reporting of actions to department.**

Any court or other agency of this state, or a subdivision of the state that has jurisdiction to take any action suspending, revoking, or otherwise limiting a license to drive, shall report any action suspending, revoking, or limiting a license to drive and the adjudication upon which it is based, to the department within ten days, in a manner specified by the department.

Amended by Chapter 85, 2001 General Session

**53-3-701. Short title.**

This part is known as the "Nonresident Violator Compact."

Enacted by Chapter 234, 1993 General Session

**53-3-702. Definitions.**

As used in this part:

(1) "Citation" means a summons, ticket, or other official document issued by a peace officer for a traffic violation, containing an order that requires the motorist to

respond.

(2) "Collateral" means cash or other security deposited to secure an appearance for trial, following the issuance by a peace officer of a citation for a traffic violation.

(3) "Court" means a court of law or traffic tribunal.

(4) "Driver license" means a license or privilege to operate a motor vehicle issued under the laws of the home jurisdiction.

(5) "Home jurisdiction" means the jurisdiction that issued the driver's license of the traffic violator.

(6) "Issuing jurisdiction" means the jurisdiction in which the traffic citation was issued to the motorist.

(7) "Jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(8) "Motorist" means a driver of a motor vehicle operating in a party jurisdiction other than the home jurisdiction.

(9) "Personal recognizance" means an agreement by a motorist made at the time of issuance of the traffic citation that he will comply with the terms of that traffic citation.

(10) "Terms of the citation" means those options expressly stated upon the citation.

Amended by Chapter 282, 1998 General Session

**53-3-703. Violations exempted from compact.**

This compact does not apply to:

(1) parking or standing violations;

(2) highway weight limit violations; and

(3) violations of law governing the transportation of hazardous materials.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-704. Authority to enter compact.**

The director of the division shall execute all documents and perform all other acts necessary to enter into and carry out this part.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-705. Procedures for issuing traffic citation.**

The following is the procedure of the issuing jurisdiction:

(1) When issuing a citation for a traffic violation, a peace officer shall issue the citation to a motorist who possesses a driver license issued by a party jurisdiction and shall not, subject to the exceptions noted in Subsection (2), require the motorist to post collateral to secure appearance if the officer receives the motorist's personal recognizance that he or she will comply with the terms of the citation.

(2) Personal recognizance is acceptable only if not prohibited by law. If mandatory appearance is required, it must take place immediately following issuance of the citation.

(3) (a) Upon failure of a motorist to comply with the terms of a traffic citation, the appropriate official shall report the failure to comply to the licensing authority of the jurisdiction in which the traffic citation was issued.

(b) The report shall be made in accordance with procedures specified by the issuing jurisdiction and shall contain information as specified in the compact manual as minimum requirements for effective processing by the home jurisdiction.

(4) Upon receipt of the report, the licensing authority of the issuing jurisdiction shall transmit to the licensing authority in the home jurisdiction of the motorist the information in a form and content contained in the compact manual.

(5) The licensing authority of the issuing jurisdiction may not suspend the privilege of a motorist for whom a report has been transmitted.

(6) The licensing authority of the issuing jurisdiction may not transmit a report on any violation if the date of transmission is more than six months after the date on which the traffic citation was issued.

(7) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation where the date of issuance of the citation predates the most recent of the effective dates of entry for the two jurisdictions affected.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-706. Procedure for home jurisdictions upon report of a licensee's failure to comply with out-of-state authority.**

The following is the procedure for the home jurisdiction:

(1) (a) Upon receipt of a report of a failure to comply from the licensing authority of the issuing jurisdiction, the licensing authority of the home jurisdiction may notify the motorist and initiate a suspension action, in accordance with the home jurisdiction's procedures, and suspend the motorist's driver license until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the home jurisdiction licensing authority.

(b) Due process safeguards will be accorded.

(2) The licensing authority of the home jurisdiction shall maintain a record of actions taken and make reports to issuing jurisdictions as provided in the compact manual.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-707. Rights of party jurisdictions not affected by compact.**

Except as expressly required by the compact, nothing contained in this part affects the right of any party jurisdiction to apply any of its other laws relating to licenses to drive to any person or circumstance, or to invalidate or prevent any driver license agreement or other cooperative arrangement between a party jurisdiction and a nonparty jurisdiction.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-708. Compact administrator.**

The director of the division is the compact administrator for the state.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-709. Amendment of compact.**

(1) (a) This compact may be amended from time to time.

(b) Amendments shall be presented in resolution form to the chairman of the board of compact administrators and may be initiated by one or more party jurisdictions.

(2) Adoption of an amendment requires endorsement of all party jurisdictions and becomes effective 30 days after the date of the last endorsement.

(3) (a) Failure of a party jurisdiction to respond to the compact chairman within 120 days after receipt of the proposed amendment constitutes endorsement.

(b) A report authorized by Section 53-3-104 may not contain any evidence of a suspension that occurred as a result of failure to comply with the requirements of this part.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-801. Short title.**

This part is known as the "Identification Card Act."

Enacted by Chapter 234, 1993 General Session

**53-3-802. Definitions.**

As used in this part:

(1) "Adult" means a person 21 years of age or older.

(2) "Identification card" means a card for identification issued under this part.

(3) "Minor" means a person younger than 21 years of age.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-803. Application for identification card -- Age requirements -- Application on behalf of others.**

(1) A person at least 16 years of age or older may apply to the division for an identification card.

(2) A person younger than 16 years of age may apply to the division for an identification card with the consent of the applicant's parent or guardian.

(3) (a) If a person is unable to apply for the card due to his youth or incapacitation, the application may be made on behalf of that person by his parent or guardian.

(b) A parent or guardian applying for an identification card on behalf of a child or incapacitated person shall provide:

(i) identification, as required by the commissioner; and

(ii) the consent of the incapacitated person, as required by the commissioner.

(4) Beginning on or after July 1, 2012, a person who holds an unexpired Utah license certificate issued under Part 2, Driver Licensing Act, may not be issued a Utah

identification card or an extension of a regular identification card unless:

(a) the Utah license certificate is canceled; and

(b) if the Utah license certificate is in the person's possession, the Utah license certificate is surrendered to the division.

Amended by Chapter 252, 2014 General Session

**53-3-804. Application for identification card -- Required information -- Release of anatomical gift information -- Cancellation of identification card.**

(1) To apply for a regular identification card or limited-term identification card, the applicant shall:

(a) be a Utah resident;

(b) have a Utah residence address; and

(c) appear in person at any license examining station.

(2) The applicant shall provide the following information to the division:

(a) true and full legal name and Utah residence address;

(b) date of birth as set forth in a certified copy of the applicant's birth certificate, or other satisfactory evidence of birth, which shall be attached to the application;

(c) (i) Social Security number; or

(ii) written proof that the applicant is ineligible to receive a Social Security number;

(d) place of birth;

(e) height and weight;

(f) color of eyes and hair;

(g) signature;

(h) photograph;

(i) evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(i) that a person is:

(A) a United States citizen;

(B) a United States national; or

(C) a legal permanent resident alien; or

(ii) of the applicant's:

(A) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(B) pending or approved application for asylum in the United States;

(C) admission into the United States as a refugee;

(D) pending or approved application for temporary protected status in the United States;

(E) approved deferred action status;

(F) pending application for adjustment of status to legal permanent resident or conditional resident; or

(G) conditional permanent resident alien status;

(j) an indication whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act;

(k) an indication whether the applicant is required to register as a sex offender in

accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry; and

(l) an indication whether the applicant is a veteran of the United States Armed Forces, verification that the applicant has received an honorable or general discharge from the United States Armed Forces, and an indication whether the applicant does or does not authorize sharing the information with the state Department of Veterans' and Military Affairs.

(3) The requirements of Section 53-3-234 apply to this section for each person, age 16 and older, applying for an identification card. Refusal to consent to the release of information shall result in the denial of the identification card.

(4) A person who knowingly fails to provide the information required under Subsection (2)(k) is guilty of a class A misdemeanor.

(5) (a) Until December 1, 2014, a person born on or after December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2014, a person born on or after December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (5), the division shall cancel the Utah identification card on December 1, 2014.

(6) (a) Until December 1, 2017, a person born prior to December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2017, a person born prior to December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (6), the division shall cancel the Utah identification card on December 1, 2017.

Amended by Chapter 85, 2014 General Session
Amended by Chapter 252, 2014 General Session

**53-3-805. Identification card -- Contents -- Specifications.**

(1) (a) The division shall issue an identification card that bears:

(i) the distinguishing number assigned to the person by the division;

(ii) the name, birth date, and Utah residence address of the person;

(iii) a brief description of the person for the purpose of identification;

(iv) a photograph of the person;

(v) a photograph or other facsimile of the person's signature;

(vi) an indication whether the person intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act; and

(vii) if the person states that the person is a veteran of the United States military on the application for an identification card in accordance with Section 53-3-804 and provides verification that the person received an honorable or general discharge from the United States Armed Forces, an indication that the person is a United States military veteran for a regular identification card or a limited-term identification card issued on or after July 1, 2011.

(b) An identification card issued by the division may not bear the person's Social Security number or place of birth.

(2) (a) The card shall be of an impervious material, resistant to wear, damage, and alteration.

(b) Except as provided under Section 53-3-806, the size, form, and color of the card is prescribed by the commissioner.

(3) At the applicant's request, the card may include a statement that the applicant has a special medical problem or allergies to certain drugs, for the purpose of medical treatment.

(4) (a) The indication of intent under Subsection 53-3-804(2)(j) shall be authenticated by the applicant in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-102, the names and addresses of all persons who under Subsection 53-3-804(2)(j) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform applicants of anatomical gift options, procedures, and benefits.

(5) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans' and Military Affairs the names and addresses of all persons who indicate their status as a veteran under Subsection 53-3-804(2)(l).

(6) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection 53-3-804(2)(j) or (l), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(7) (a) The division may issue a temporary regular identification card to a person while the person obtains the required documentation to establish verification of the information described in Subsections 53-3-804(2)(a), (b), (c), (d), and (i)(i).

(b) A temporary regular identification card issued under this Subsection (7) shall be recognized and grant the person the same privileges as a regular identification card.

(c) A temporary regular identification card issued under this Subsection (7) is invalid:

(i) when the person's regular identification card has been issued;

(ii) when, for good cause, an applicant's application for a regular identification

card has been refused; or
(iii) upon expiration of the temporary regular identification card.

Amended by Chapter 85, 2014 General Session
Amended by Chapter 252, 2014 General Session

**53-3-806. Portrait-style format -- Minor's card distinguishable.**

(1) The division shall use a portrait-style format for all identification cards, similar to the format used for license certificates issued to a person younger than 21 years of age under Section 53-3-207.

(2) The identification card issued to a person younger than 21 years of age shall be distinguished by use of plainly printed information or by the use of a color or other means not used for the identification card issued to a person 21 years of age or older.

(3) The division shall distinguish an identification card issued to any person:

(a) younger than 21 years of age by plainly printing the date the identification card holder is 21 years of age, which is the legal age for purchasing an alcoholic beverage or alcoholic product under Section 32B-4-403; and

(b) younger than 19 years of age by plainly printing the date the identification card holder is 19 years of age, which is the legal age for purchasing tobacco products under Section 76-10-104.

(4) The division shall distinguish a limited-term identification card by clearly indicating on the card:

(a) that it is temporary; and

(b) its expiration date.

Amended by Chapter 276, 2010 General Session

**53-3-806.5. Identification card required if sex offender does not have driver license.**

(1) (a) If a person is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, and the person does not hold a current driver license in compliance with Section 53-3-205, the person shall obtain an identification card.

(b) The person shall maintain a current identification card during any time the person is required to register as a sex offender and the person does not hold a valid driver license.

(2) Failure to maintain a current identification card as required under Subsection (1) on and after April 30, 2007 is a class A misdemeanor for each month of violation of Subsection (1).

Amended by Chapter 145, 2012 General Session

**53-3-807. Expiration -- Address and name change -- Extension.**

(1) (a) A regular identification card issued on or after July 1, 2006, expires on the birth date of the applicant in the fifth year following the issuance of the regular identification card.

(b) A limited-term identification card expires on:

(i) the expiration date of the period of time of the individual's authorized stay in the United States or on the birth date of the applicant in the fifth year following the issuance of the limited-term identification card, whichever is sooner; or

(ii) on the date of issuance in the first year following the year that the limited-term identification card was issued if there is no definite end to the individual's period of authorized stay.

(2) If a person has applied for and received an identification card and subsequently moves from the address shown on the application or on the card, the person shall within 10 days notify the division in a manner specified by the division of the person's new address.

(3) If a person has applied for and received an identification card and subsequently changes the person's name under Title 42, Chapter 1, Change of Name, the person:

(a) shall surrender the card to the division; and

(b) may apply for a new card in the person's new name by:

(i) furnishing proper documentation to the division as provided in Section 53-3-804; and

(ii) paying the fee required under Section 53-3-105.

(4) (a) Except as provided in Subsection (4)(c), if a person has applied for and received an identification card and is currently required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry:

(i) the person's identification card expires annually on the next birth date of the cardholder, on and after July 1, 2006;

(ii) the person shall surrender the person's identification card to the division on or before the cardholder's next birth date beginning on July 1, 2006; and

(iii) the person may apply for an identification card with an expiration date identified in Subsection (8) by:

(A) furnishing proper documentation to the division as provided in Section 53-3-804; and

(B) paying the fee for an identification card required under Section 53-3-105.

(b) Except as provided in Subsection (4)(c), if a person has applied for and received an identification card and is subsequently convicted of any offense listed in Subsection 77-41-102(16), the person shall surrender the card to the division on the person's next birth date following the conviction and may apply for a new card with an expiration date identified in Subsection (8) by:

(i) furnishing proper documentation to the division as provided in Section 53-3-804; and

(ii) paying the fee required under Section 53-3-105.

(c) A person who is unable to comply with the provisions of Subsection (4)(a) or (4)(b) because the person is in the custody of the Department of Corrections or Division of Juvenile Justice Services, confined in a correctional facility not operated by or under contract with the Department of Corrections, or committed to a state mental facility, shall comply with the provisions of Subsection (4)(a) or (b) within 10 days of being released from confinement.

(5) A person older than 21 years of age with a disability, as defined under the

Americans with Disabilities Act of 1990, Pub. L. 101-336, may extend the expiration date on an identification card for five years if the person with a disability or an agent of the person with a disability:

(a) requests that the division send the application form to obtain the extension or requests an application form in person at the division's offices;

(b) completes the application;

(c) certifies that the extension is for a person 21 years of age or older with a disability; and

(d) returns the application to the division together with the identification card fee required under Section 53-3-105.

(6) The division may extend a valid regular identification card for five years:

(a) (i) at any time within six months before the identification card expires; and

(ii) if the identification card was issued after January 1, 2010.

(b) The application for an extension of a regular identification card shall be accompanied by a fee under Section 53-3-105.

(c) The division shall allow extensions:

(i) by mail, electronic means, or other means as determined by the division at the appropriate extension fee rate under Section 53-3-105; and

(ii) only if the applicant qualifies under this section.

(7) (a) (i) Except as prohibited under Subsection (7)(b), a regular identification card may only be extended once under Subsections (5) and (6).

(ii) After an extension an application for an identification card must be applied for in person at the division's offices.

(b) An identification card issued to a person required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, may not be extended.

(8) An identification card issued prior to July 1, 2006 to a person 65 years of age or older expires on December 1, 2017.

(9) Notwithstanding the provisions of this section, an identification card expires on the birth date of the applicant in the first year following the year that the identification card was issued if the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(10) A person who knowingly fails to surrender an identification card under Subsection (4) is guilty of a class A misdemeanor.

Amended by Chapter 252, 2014 General Session

**53-3-808. Fee required for identification card.**

(1) The commissioner may charge and collect a fee only as provided by Section 53-3-105 when an application for an identification card is submitted.

(2) (a) Before accepting an application from an indigent person for an identification card without the payment of a fee, the division shall require that the indigent person sign a statement under penalty of perjury that the person is indigent.

(b) The division may require an indigent person applying for an identification card without the payment of a fee to execute a release form allowing the division to inquire with the Tax Commission whether the person has filed state income tax returns

or has state income tax withholding suggesting that the person is not indigent.

Amended by Chapter 45, 2009 General Session

**53-3-809. Revocation of card for providing false information or altering card.**

The commissioner shall revoke and repossess the identification card of any person who has:

(1) furnished false or forged information or evidence in support of any application for any identification card; or

(2) altered any information or photograph on an identification card.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-3-810. Prohibited uses of identification card -- Penalties.**

(1) It is a class C misdemeanor to:

(a) lend or knowingly permit the use of an identification card issued to the person, by a person not entitled to it;

(b) display or to represent as the person's own an identification card not issued to the person;

(c) refuse to surrender to the division or a peace officer upon demand any identification card issued by the division;

(d) use a false name or give a false address in any application for an identification card or any renewal or duplicate of the identification card, or to knowingly make a false statement, or to knowingly conceal a material fact in the application;

(e) display a revoked identification card as a valid identification card;

(f) knowingly acquire, use, display, or transfer an item that purports to be an authentic identification card issued by a governmental entity if the item is not an authentic identification card issued by that governmental entity; or

(g) alter any information contained on an authentic identification card so that it no longer represents the information originally displayed.

(2) It is a class A misdemeanor to knowingly:

(a) issue an identification card with false or fraudulent information;

(b) issue an identification card to any person younger than 21 years of age if the identification card is not distinguished as required for a person younger than 21 years of age under Section 53-3-806; or

(c) acquire, use, display, or transfer a false or altered identification card to procure:

(i) a cigarette;

(ii) an electronic cigarette, as defined in Section 76-10-101;

(iii) tobacco; or

(iv) a tobacco product.

(3) A person may not knowingly use, display, or transfer a false or altered identification card to procure alcoholic beverages, gain admittance to a place where alcoholic beverages are sold or consumed, or obtain employment that may not be obtained by a minor in violation of Section 32B-1-403.

(4) It is a third degree felony if a person's acquisition, use, display, or transfer of a false or altered identification card:

(a) aids or furthers the person's efforts to fraudulently obtain goods or services; or

(b) aids or furthers the person's efforts to commit a violent felony.

Amended by Chapter 114, 2010 General Session
Amended by Chapter 276, 2010 General Session

**53-3-901. Title.**

This part is known as the "Motorcycle Rider Education Act."

Amended by Chapter 21, 1999 General Session

**53-3-902. Definitions.**

As used in this part:

(1) "Motorcycle" has the same meaning as provided in Section 41-1a-102.

(2) "Program" means the motorcycle rider education program for training and information disbursement created under Section 53-3-903.

(3) "Rider training course" means a motorcycle rider education curriculum and delivery system approved by the division as meeting national standards designed to develop and instill the knowledge, attitudes, habits, and skills necessary for the safe operation of a motorcycle.

Amended by Chapter 21, 1999 General Session

**53-3-903. Motorcycle Rider Education Program.**

(1) (a) The division shall develop standards for and administer the Motorcycle Rider Education Program.

(b) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this chapter.

(2) The program shall include:

(a) a novice rider training course;

(b) a rider training course for experienced riders; and

(c) an instructor training course.

(3) The division may expand the program to include:

(a) enhancing public awareness of motorcycle riders;

(b) increasing the awareness of motorcycle riders of the effects of alcohol and drugs;

(c) motorcycle rider skills improvement;

(d) program and other motorcycle safety promotion; and

(e) improvement of motorcycle licensing efforts.

(4) (a) Subject to the restriction in Subsection (4)(b), rider training courses shall be open to all residents of the state who:

(i) are at least 15 years 6 months of age; and

(ii) either hold a valid learner permit or driver license for any classification or are

eligible for a motorcycle learner permit.

(b) A person who has been issued a learner permit may enroll in and complete a rider training course if the course is conducted on a closed course that:

(i) is not conducted on a public highway;

(ii) is approved by the division; and

(iii) meets or exceeds established national standards for motorcycle rider training courses prescribed by the Motorcycle Safety Foundation.

(c) An adequate number of novice rider training courses shall be provided to meet the reasonably anticipated needs of all persons in the state who are eligible and who desire to participate in the program.

(d) Program delivery may be phased in over a reasonable period of time.

(5) (a) The division may enter into contracts with either public or private institutions to provide a rider training course approved by the division.

(b) The institution shall issue certificates of completion in the manner and form prescribed by the director to persons who satisfactorily complete the requirements of the course.

(c) An institution conducting a rider training course may charge a reasonable tuition fee to cover the cost of offering the course.

(d) (i) The division may use program funds to defray its own expenses in administering the program.

(ii) The division may reimburse entities that offer approved courses for actual expenses incurred in offering the courses, up to a limit established by the division based upon available program funds.

(iii) Any reimbursement paid to an entity must be entirely reflected by the entity in reduced course enrollment fees for students.

(6) (a) Standards for the motorcycle rider training courses, including standards for course curriculum, materials, and student evaluation, and standards for the training and approval of instructors shall meet or exceed established national standards for motorcycle rider training courses prescribed by the Motorcycle Safety Foundation.

(b) Motorcycle rider training courses shall be taught only by instructors approved under Section 53-3-904.

(c) Motorcycle rider training courses for novices shall include at least eight hours of practice riding.

(7) The commissioner shall appoint a full-time program coordinator to oversee and direct the program.

Amended by Chapter 252, 2009 General Session

**53-3-904. Instructor training and approval.**

(1) The program coordinator shall approve instructors for the motorcycle rider training courses.

(2) A person may not be approved as an instructor unless the person holds a current instructor certification issued by the Motorcycle Safety Foundation or another nationally recognized motorcycle safety instructor certifying body.

(3) (a) The program shall include instructor training courses as necessary.

(b) Prior to completion of an instructor training course, the participant shall

demonstrate:

(i) knowledge of the course material;

(ii) knowledge of proper motorcycle operation;

(iii) proficiency in riding motorcycles; and

(iv) the necessary aptitude for instructing students.

(4) An applicant for an instructor training course shall:

(a) have a high school diploma or its equivalent;

(b) be at least 18 years of age;

(c) have a valid endorsement to his driver's license for motorcycles; and

(d) have at least two years of recent motorcycle riding experience.

(5) The division shall refuse to certify or revoke certification of an instructor if the applicant:

(a) has had his driver's license suspended or revoked during the preceding two years or within the preceding five years if the suspension or revocation was for an alcohol or drug-related offense;

(b) fails to successfully complete an instructor course or required course updates; or

(c) no longer meets the requirements of this section.

Enacted by Chapter 216, 1993 General Session

**53-3-905. Dedication of fees.**

(1) The following shall be deposited as dedicated credits in the Transportation Fund to be used by the division for the program:

(a) $5 of the annual registration fee imposed for each registered motorcycle under Subsection 41-1a-1206(1)(a);

(b) $4 of the six-month registration fee imposed for each registered motorcycle under Subsection 41-1a-1206(2)(a); and

(c) $2.50 of the fee imposed under Section 53-3-105 for an original, renewal, or extension of a motorcycle endorsement.

(2) Appropriations to the program are nonlapsing.

(3) Appropriations may not be used for assistance to, advocacy of, or lobbying for any legislation unless the legislation would enhance or affect the financial status of the program or the program's continuation.

Amended by Chapter 397, 2012 General Session

**53-3-907. Licensing skills test exemption.**

(1) The division may exempt an applicant for a motorcycle operator license or endorsement from the licensing skills test if he presents proof of successful completion of a rider training course approved by the division that includes a similar test of skills.

(2) The exemption provided in Subsection (1) applies only if the applicant applies for a motorcycle operator license or endorsement within six months of completion of an approved rider training course.

Enacted by Chapter 216, 1993 General Session

**53-3-908. Advisory committee.**

(1) The governor shall appoint a five-member program advisory committee to assist in the development and implementation of the program.

(2) The committee members shall be appointed by the governor as follows:

(a) one representative of motorcycle retail dealers;

(b) one representative of peace officers;

(c) one citizen not affiliated with a motorcycle dealer, manufacturer, or association;

(d) one motorcycle safety foundation instructor or chief instructor; and

(e) one member of an incorporated motorcycle rider organization.

(3) All members of the advisory committee shall be licensed motorcyclists.

(4) (a) Except as required by Subsection (4)(b), as terms of current committee members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) The committee shall meet at the call of the director.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 286, 2010 General Session
Amended by Chapter 324, 2010 General Session

**53-3-909. Program exemption.**

An entity offering a motorcycle rider training course approved by the division and an instructor providing instruction as part of an approved motorcycle rider training course are exempt from the requirements of Title 53, Chapter 3, Part 5, Commercial Driver Training Schools Act.

Amended by Chapter 12, 1994 General Session

**53-3-1001. Title.**

This part is known as the "Ignition Interlock System Program Act."

Enacted by Chapter 421, 2011 General Session

**53-3-1002. Definitions.**

As used in this part:

(1) "Ignition interlock system" has the same meaning as defined in Section

41-6a-518.2.

(2) "Ignition interlock system provider" means an individual who:

(a) is acting on behalf of a business enterprise conducted by a person, association, partnership, or corporation for the purpose of installation and maintenance of an ignition interlock system;

(b) is certified as an installer;

(c) has met the requirements for ignition interlock system provider status as established by the division;

(d) is authorized or certified to operate or manage an ignition interlock system business;

(e) may supervise the work of another installer; and

(f) charges a fee for the services described under this Subsection (2).

(3) "Installer" means a person, whether acting as an ignition interlock system provider or for an ignition interlock system provider for compensation, who is certified by the division to install ignition interlock systems.

(4) "Interlock restricted driver" has the same meaning as defined in Section 41-6a-518.2.

(5) "Provider" means an ignition interlock system provider.

Enacted by Chapter 421, 2011 General Session

**53-3-1003. Licenses required -- Inspections.**

(1) An ignition interlock system provider may be certified to facilitate installation of ignition interlock systems only if the provider applies for and obtains a license from the division.

(2) A person may act as an ignition interlock system installer only if the person applies for and obtains a license from the division.

(3) The division shall inspect the provider facilities and equipment of applicants and licensees and examine applicants for provider licenses and installer licenses.

(4) The division shall administer and enforce this part.

Enacted by Chapter 421, 2011 General Session

**53-3-1004. Ignition interlock system provider license -- Contents of rules.**

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules regarding the requirements for:

(1) an ignition interlock system provider license, including requirements concerning:

(a) locations;

(b) equipment;

(c) installers;

(d) previous records of the provider and installers;

(e) financial statements;

(f) schedule of fees and charges;

(g) character and reputation of the providers and installers;

(h) insurance as the commissioner determines necessary to protect the interests

of the public; and
(i) other provisions the commissioner may prescribe for the protection of the public;
(2) an installer's license, including requirements concerning:
(a) moral character;
(b) knowledge of the procedures for installation of an ignition interlock system; and
(c) other provisions the commissioner may prescribe for the protection of the public; and
(3) applications for licenses.

Enacted by Chapter 421, 2011 General Session

**53-3-1005. License expiration and renewal -- Fee required -- Disposition of revenue.**
(1) (a) All ignition interlock system provider licenses and installer licenses:
(i) expire one year from the date of issuance; and
(ii) may be renewed upon application to the commissioner as prescribed by rule.
(b) Each application for an original or renewal provider license or installer license shall be accompanied by a fee determined by the department under Section 63J-1-504.
(c) A license fee may not be refunded if the license is rejected, suspended, or revoked.
(2) The license fees collected under this part shall be placed in the Department of Public Safety Restricted Account.

Enacted by Chapter 421, 2011 General Session

**53-3-1006. Licenses -- Cancellation, revocation, or refusal to issue or renew -- Ineligibility for license.**
(1) The department may cancel, revoke, or refuse to issue or renew an ignition interlock system provider or installer license if it finds that the licensee or applicant has not complied with or has violated this part or any rule made by the division.
(2) A licensee:
(a) shall return a canceled or revoked license to the division; and
(b) is not eligible to apply for a license under this part until six months have elapsed since the date of a cancellation or revocation under this section.

Enacted by Chapter 421, 2011 General Session

**53-3-1007. Ignition interlock system provider -- Notification to the division upon installation or removal of an ignition interlock system -- License suspension or revocation for failure to install or remove.**
(1) An ignition interlock system provider who installs an ignition interlock system on a person's vehicle shall:
(a) provide proof of installation to the person; and

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

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

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

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

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

(c) clear the suspension upon:

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

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

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

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

(a) the division:

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

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

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

(b) the person's interlock restricted period has expired.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing:

(a) procedures for certification and regulation of ignition interlock system providers;

(b) acceptable documentation for proof of the installation of an ignition interlock device;

(c) procedures for an ignition interlock system provider to electronically notify the division; and

(d) policies and procedures for the administration of the ignition interlock system program created under this section.

Amended by Chapter 101, 2014 General Session

**53-3-1008. Violations -- Penalties.**

A violation of the requirement under this part to be licensed as an ignition interlock system provider or installer is a class C misdemeanor.

Enacted by Chapter 421, 2011 General Session

**53-5-701. Title.**

This part is known as the "Concealed Firearm Act."

Amended by Chapter 62, 2010 General Session

**53-5-702. Definitions.**

In addition to the definitions in Section 76-10-501, as used in this part:

(1) "Active duty service member" means a person on active military duty with the United States military and includes full time military active duty, military reserve active duty, and national guard military active duty service members stationed in Utah.

(2) "Active duty service member spouse" means a person recognized by the military as the spouse of an active duty service member and who resides with the active duty service member in Utah.

(3) "Board" means the Concealed Firearm Review Board created in Section 53-5-703.

(4) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(5) "Commissioner" means the commissioner of the Department of Public Safety.

(6) "Conviction" means criminal conduct where the filing of a criminal charge has resulted in:

(a) a finding of guilt based on evidence presented to a judge or jury;

(b) a guilty plea;

(c) a plea of nolo contendere;

(d) a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation;

(e) a pending diversion agreement; or

(f) a conviction which has been reduced pursuant to Section 76-3-402.

Amended by Chapter 280, 2013 General Session

**53-5-703. Board -- Membership -- Compensation -- Terms -- Duties.**

(1) There is created within the bureau the Concealed Firearm Review Board.

(2) (a) The board is comprised of not more than five members appointed by the commissioner on a bipartisan basis.

(b) The board shall include a member representing law enforcement and at least two citizens, one of whom represents sporting interests.

(3) (a) Except as required by Subsection (3)(b), as terms of current board members expire, the commissioner shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board

is appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The board shall meet at least quarterly, unless the board has no business to conduct during that quarter.

(7) The board, upon receiving a timely filed petition for review, shall review within a reasonable time the denial, suspension, or revocation of a permit or a temporary permit to carry a concealed firearm.

Amended by Chapter 62, 2010 General Session
Amended by Chapter 286, 2010 General Session
Amended by Chapter 324, 2010 General Session

**53-5-704. Bureau duties -- Permit to carry concealed firearm -- Certification for concealed firearms instructor -- Requirements for issuance -- Violation -- Denial, suspension, or revocation -- Appeal procedure.**

(1) (a) The bureau shall issue a permit to carry a concealed firearm for lawful self defense to an applicant who is 21 years of age or older within 60 days after receiving an application, unless the bureau finds proof that the applicant does not meet the qualifications set forth in Subsection (2).

(b) The permit is valid throughout the state for five years, without restriction, except as otherwise provided by Section 53-5-710.

(c) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505 do not apply to a person issued a permit under Subsection (1)(a).

(d) Subsection (4)(a) does not apply to a nonresident:

(i) active duty service member, who present to the bureau orders requiring the active duty service member to report for duty in this state; or

(ii) an active duty service member's spouse, stationed with the active duty service member, who presents to the bureau the active duty service member's orders requiring the service member to report for duty in this state.

(2) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if the applicant or permit holder:

(i) has been or is convicted of a felony;

(ii) has been or is convicted of a crime of violence;

(iii) has been or is convicted of an offense involving the use of alcohol;

(iv) has been or is convicted of an offense involving the unlawful use of narcotics or other controlled substances;

(v) has been or is convicted of an offense involving moral turpitude;

(vi) has been or is convicted of an offense involving domestic violence;

(vii) has been or is adjudicated by a state or federal court as mentally

incompetent, unless the adjudication has been withdrawn or reversed; and

(viii) is not qualified to purchase and possess a firearm pursuant to Section 76-10-503 and federal law.

(b) In determining whether an applicant or permit holder meets the qualifications set forth in Subsection (2)(a), the bureau shall consider mitigating circumstances.

(3) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if it has reasonable cause to believe that the applicant or permit holder has been or is a danger to self or others as demonstrated by evidence, including:

(i) past pattern of behavior involving unlawful violence or threats of unlawful violence;

(ii) past participation in incidents involving unlawful violence or threats of unlawful violence; or

(iii) conviction of an offense in violation of Title 76, Chapter 10, Part 5, Weapons.

(b) The bureau may not deny, suspend, or revoke a concealed firearm permit solely for a single conviction of an infraction violation of Title 76, Chapter 10, Part 5, Weapons.

(c) In determining whether the applicant or permit holder has been or is a danger to self or others, the bureau may inspect:

(i) expunged records of arrests and convictions of adults as provided in Section 77-40-109; and

(ii) juvenile court records as provided in Section 78A-6-209.

(4) (a) In addition to meeting the other qualifications for the issuance of a concealed firearm permit under this section, a nonresident applicant who resides in a state that recognizes the validity of the Utah permit or has reciprocity with Utah's concealed firearm permit law shall:

(i) hold a current concealed firearm or concealed weapon permit issued by the appropriate permitting authority of the nonresident applicant's state of residency; and

(ii) submit a photocopy or electronic copy of the nonresident applicant's current concealed firearm or concealed weapon permit referred to in Subsection (4)(a)(i).

(b) A nonresident applicant who knowingly and willfully provides false information to the bureau under Subsection (4)(a) is prohibited from holding a Utah concealed firearm permit for a period of 10 years.

(c) Subsection (4)(a) applies to all applications for the issuance of a concealed firearm permit that are received by the bureau after May 10, 2011.

(d) Beginning January 1, 2012, Subsection (4)(a) also applies to an application for renewal of a concealed firearm permit by a nonresident.

(5) The bureau shall issue a concealed firearm permit to a former peace officer who departs full-time employment as a peace officer, in an honorable manner, within five years of that departure if the officer meets the requirements of this section.

(6) Except as provided in Subsection (7), the bureau shall also require the applicant to provide:

(a) the address of the applicant's permanent residence;

(b) one recent dated photograph;

(c) one set of fingerprints; and

(d) evidence of general familiarity with the types of firearms to be concealed as

defined in Subsection (8).

(7) An applicant who is a law enforcement officer under Section 53-13-103 may provide a letter of good standing from the officer's commanding officer in place of the evidence required by Subsection (6)(d).

(8) (a) General familiarity with the types of firearms to be concealed includes training in:

(i) the safe loading, unloading, storage, and carrying of the types of firearms to be concealed; and

(ii) current laws defining lawful use of a firearm by a private citizen, including lawful self-defense, use of force by a private citizen, including use of deadly force, transportation, and concealment.

(b) An applicant may satisfy the general familiarity requirement of Subsection (8)(a) by one of the following:

(i) completion of a course of instruction conducted by a national, state, or local firearms training organization approved by the bureau;

(ii) certification of general familiarity by a person who has been certified by the bureau, which may include a law enforcement officer, military or civilian firearms instructor, or hunter safety instructor; or

(iii) equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service.

(c) Instruction taken by a student under Subsection (8) shall be in person and not through electronic means.

(9) (a) An applicant for certification as a Utah concealed firearms instructor shall:

(i) be at least 21 years of age;

(ii) be currently eligible to possess a firearm under Section 76-10-503;

(iii) have:

(A) completed a firearm instruction training course from the National Rifle Association or the Department of Public Safety, Division of Peace Officer Safety Standards and Training; or

(B) received training equivalent to one of the courses referred to in Subsection (9)(a)(iii)(A) as determined by the bureau;

(iv) have taken a course of instruction and passed a certification test as described in Subsection (9)(c); and

(v) possess a Utah concealed firearm permit.

(b) An instructor's certification is valid for three years from the date of issuance, unless revoked by the bureau.

(c) (i) In order to obtain initial certification or renew a certification, an instructor shall attend an instructional course and pass a test under the direction of the bureau.

(ii) (A) The bureau shall provide or contract to provide the course referred to in Subsection (9)(c)(i) twice every year.

(B) The course shall include instruction on current Utah law related to firearms, including concealed carry statutes and rules, and the use of deadly force by private citizens.

(d) (i) Each applicant for certification under this Subsection (9) shall pay a fee of $50.00 at the time of application for initial certification.

(ii) The renewal fee for the certificate is $25.

(iii) The bureau may use a fee paid under Subsections (9)(d)(i) and (ii) as a dedicated credit to cover the cost incurred in maintaining and improving the instruction program required for concealed firearm instructors under this Subsection (9).

(10) A certified concealed firearms instructor shall provide each of the instructor's students with the required course of instruction outline approved by the bureau.

(11) (a) (i) A concealed firearms instructor shall provide a signed certificate to a person successfully completing the offered course of instruction.

(ii) The instructor shall sign the certificate with the exact name indicated on the instructor's certification issued by the bureau under Subsection (9).

(iii) (A) The certificate shall also have affixed to it the instructor's official seal, which is the exclusive property of the instructor and may not be used by any other person.

(B) The instructor shall destroy the seal upon revocation or expiration of the instructor's certification under Subsection (9).

(C) The bureau shall determine the design and content of the seal to include at least the following:

(I) the instructor's name as it appears on the instructor's certification;

(II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my certification expires on (the instructor's certification expiration date)"; and

(III) the instructor's business or residence address.

(D) The seal shall be affixed to each student certificate issued by the instructor in a manner that does not obscure or render illegible any information or signatures contained in the document.

(b) The applicant shall provide the certificate to the bureau in compliance with Subsection (6)(d).

(12) The bureau may deny, suspend, or revoke the certification of an applicant or a concealed firearms instructor if it has reason to believe the applicant or the instructor has:

(a) become ineligible to possess a firearm under Section 76-10-503 or federal law; or

(b) knowingly and willfully provided false information to the bureau.

(13) An applicant for certification or a concealed firearms instructor has the same appeal rights as set forth in Subsection (16).

(14) In providing instruction and issuing a permit under this part, the concealed firearms instructor and the bureau are not vicariously liable for damages caused by the permit holder.

(15) An individual who knowingly and willfully provides false information on an application filed under this part is guilty of a class B misdemeanor, and the application may be denied, or the permit may be suspended or revoked.

(16) (a) In the event of a denial, suspension, or revocation of a permit, the applicant or permit holder may file a petition for review with the board within 60 days from the date the denial, suspension, or revocation is received by the applicant or permit holder by certified mail, return receipt requested.

(b) The bureau's denial of a permit shall be in writing and shall include the general reasons for the action.

(c) If an applicant or permit holder appeals the denial to the review board, the applicant or permit holder may have access to the evidence upon which the denial is based in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(d) On appeal to the board, the bureau has the burden of proof by a preponderance of the evidence.

(e) (i) Upon a ruling by the board on the appeal of a denial, the board shall issue a final order within 30 days stating the board's decision.

(ii) The final order shall be in the form prescribed by Subsection 63G-4-203(1)(i).

(iii) The final order is final bureau action for purposes of judicial review under Section 63G-4-402.

(17) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this chapter.

Amended by Chapter 280, 2013 General Session

**53-5-705. Temporary permit to carry concealed firearm -- Denial, suspension, or revocation -- Appeal.**

(1) The bureau or its designated agent may issue a temporary permit to carry a concealed firearm to a person who:

(a) has applied for a permit under Section 53-5-704;

(b) has applied for a temporary permit under this section; and

(c) meets the criteria required in Subsections (2) and (3).

(2) To receive a temporary permit under this section, the applicant shall demonstrate in writing to the satisfaction of the bureau extenuating circumstances that would justify issuing a temporary permit.

(3) A temporary permit may not be issued under this section until preliminary record checks regarding the applicant have been made with the National Crime Information Center and the bureau to determine any criminal history.

(4) (a) A temporary permit is valid only for a maximum of 90 days or any lesser period specified by the bureau, or until a permit under Section 53-5-704 is issued to the holder of the temporary permit, whichever period is shorter.

(b) The provisions of Subsections 76-10-504(1) and (2) and Section 76-10-505 do not apply to a person issued a temporary permit under this section during the time period for which the temporary permit is valid.

(5) The bureau may deny, suspend, or revoke a temporary permit prior to expiration if the commissioner determines:

(a) the circumstances justifying the temporary permit no longer exist; or

(b) the holder of the temporary permit does not meet the requirements for a permit under Section 53-5-704.

(6) (a) The denial, suspension, or revocation of a temporary permit shall be in writing and shall include the reasons for the action.

(b) The bureau's decision to deny, suspend, or revoke a temporary permit may not be appealed to the board.

(c) Denial, suspension, or revocation under this subsection is final action for purposes of judicial review under Section 63G-4-402.

Amended by Chapter 62, 2010 General Session

**53-5-706. Permit -- Fingerprints transmitted to bureau -- Report from bureau.**

(1) (a) Except as provided in Subsection (2), the fingerprints of each applicant shall be taken on a form prescribed by the bureau.

(b) Upon receipt of the fingerprints and the fee prescribed in Section 53-5-707, the bureau shall conduct a search of its files for criminal history information pertaining to the applicant, and shall request the Federal Bureau of Investigation to conduct a similar search through its files.

(c) If the fingerprints are insufficient for the Federal Bureau of Investigation to conduct a search of its files for criminal history information, the application or concealed firearm permit may be denied, suspended, or revoked until sufficient fingerprints are submitted by the applicant.

(2) (a) If the permit applicant has previously applied to the bureau for a permit to carry concealed firearms, the bureau shall note the previous identification numbers and other data which would provide positive identification in the files of the bureau on the copy of any subsequent permit submitted to the bureau in accordance with this section.

(b) No additional application form, fingerprints, or fee are required under this Subsection (2).

Amended by Chapter 368, 2011 General Session

**53-5-707. Concealed firearm permit -- Fees -- Concealed Weapons Account.**

(1) (a) An applicant for a concealed firearm permit shall pay a fee of $24.75 at the time of filing an application.

(b) A nonresident applicant shall pay an additional $10 for the additional cost of processing a nonresident application.

(c) The bureau shall waive the initial fee for an applicant who is a law enforcement officer under Section 53-13-103.

(d) Concealed firearm permit renewal fees for active duty service members and the spouse of an active duty service member shall be waived.

(2) The renewal fee for the permit is $15.

(3) The replacement fee for the permit is $10.

(4) (a) The late fee for the renewal permit is $7.50.

(b) As used in this section, "late fee" means the fee charged by the bureau for a renewal submitted on a permit that has been expired for more than 30 days but less than one year.

(5) (a) There is created a restricted account within the General Fund known as the "Concealed Weapons Account."

(b) The account shall be funded from fees collected under this section.

(c) Funds in the account shall be used to cover costs relating to the issuance of concealed firearm permits under this part and may not be used for any other purpose.

(6) (a) The bureau may collect any fees charged by an outside agency for

additional services required by statute as a prerequisite for issuance of a permit.

(b) The bureau may modify the fee under Subsection (1)(a) by adjusting that fee so that the total of the fee under Subsection (1)(a) and the fee under Subsection (6)(a) is the nearest even dollar amount to that total.

(c) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the appropriate agency.

(7) The bureau shall make an annual report in writing to the Legislature's Law Enforcement and Criminal Justice Interim Committee on the amount and use of the fees collected under this section.

Amended by Chapter 189, 2014 General Session
Amended by Chapter 226, 2014 General Session

**53-5-708. Permit -- Names private.**

(1) (a) The bureau shall maintain a record in its office of any permit issued under this part.

(b) Notwithstanding the requirements of Subsection 63G-2-301(2)(b), the names, addresses, telephone numbers, dates of birth, and Social Security numbers of persons receiving permits are protected records under Subsection 63G-2-305 (11).

(c) Notwithstanding Section 63G-2-206, a person may not share any of the information listed in Subsection (1)(b) with any office, department, division, or other agency of the federal government unless:

(i) the disclosure is necessary to conduct a criminal background check on the individual who is the subject of the information;

(ii) the disclosure of information is made pursuant to a court order directly associated with an active investigation or prosecution of the individual who is the subject of the information;

(iii) the disclosure is made to a criminal justice agency in a criminal investigation or prosecution;

(iv) the disclosure is made by a law enforcement agency within the state to another law enforcement agency in the state or in another state in connection with an investigation, including a preliminary investigation, or a prosecution of the individual who is the subject of the information;

(v) the disclosure is made by a law enforcement agency within the state to an employee of a federal law enforcement agency in the course of a combined law enforcement effort involving the law enforcement agency within the state and the federal law enforcement agency; or

(vi) the disclosure is made in response to a routine request that a federal law enforcement officer makes to obtain information on an individual whom the federal law enforcement officer detains, including for a traffic stop, or questions because of the individual's suspected violation of state law.

(d) A person is guilty of a class A misdemeanor if the person knowingly:

(i) discloses information listed in Subsection (1)(b) in violation of the provisions under Title 63G, Chapter 2, Government Records Access and Management Act, applicable to protected records; or

(ii) shares information in violation of Subsection (1)(c).

(e) (i) As used in this Subsection (1)(e), "governmental agency" means:
(A) the state or any department, division, agency, or other instrumentality of the state; or
(B) a political subdivision of the state, including a county, city, town, school district, local district, and special service district.
(ii) A governmental agency may not compel or attempt to compel an individual who has been issued a concealed firearm permit to divulge whether the individual:
(A) has been issued a concealed firearm permit; or
(B) is carrying a concealed firearm.
(iii) Subsection (1)(e)(ii) does not apply to a law enforcement officer.
(2) The bureau shall immediately file a copy of each permit it issues under this part.

Amended by Chapter 298, 2013 General Session
Amended by Chapter 445, 2013 General Session

**53-5-710. Cross-references to concealed firearm permit restrictions.**
A person with a permit to carry a concealed firearm may not carry a concealed firearm in the following locations:
(1) any secure area prescribed in Section 76-10-523.5 in which firearms are prohibited and notice of the prohibition posted;
(2) in any airport secure area as provided in Section 76-10-529; or
(3) in any house of worship or in any private residence where dangerous weapons are prohibited as provided in Section 76-10-530.

Amended by Chapter 366, 1999 General Session

**53-5-711. Law enforcement officials and judges -- Training requirements -- Qualification -- Revocation.**
(1) For purposes of this section and Section 76-10-523:
(a) "Judge" means a judge or justice of a court of record or court not of record, but does not include a judge pro tem or senior judge.
(b) "Law enforcement official of this state" means:
(i) a member of the Board of Pardons and Parole;
(ii) a district attorney, deputy district attorney, county attorney or deputy county attorney of a county not in a prosecution district;
(iii) the attorney general;
(iv) an assistant attorney general designated as a criminal prosecutor; or
(v) a city attorney or a deputy city attorney designated as a criminal prosecutor.
(2) To qualify for an exemption in Section 76-10-523, a law enforcement official or judge shall complete the following training requirements:
(a) meet the requirements of Sections 53-5-704, 53-5-706, and 53-5-707; and
(b) successfully complete an additional course of training as established by the commissioner of public safety designed to assist them while carrying out their official law enforcement and judicial duties as agents for the state or its political subdivisions.
(3) Annual requalification requirements for law enforcement officials and judges

shall be established by the commissioner of public safety. Additional requalification requirements may be established by the:

(a) Board of Pardons and Parole by rule for its members;

(b) Judicial Council by rule for judges; and

(c) the district attorney, county attorney in a county not in a prosecution district, the attorney general, or city attorney by policy for prosecutors under their jurisdiction.

(4) The bureau may:

(a) issue a certificate of qualification to a judge or law enforcement official who has completed the requirements of Subsection (2), which certificate of qualification is valid until revoked;

(b) revoke the certificate of qualification of a judge or law enforcement official who:

(i) fails to meet the annual requalification criteria established pursuant to Subsection (3);

(ii) would be subject to revocation of a concealed firearm permit under Subsection 53-5-704(2)(a); or

(iii) is no longer employed as a judge or law enforcement official as defined in Subsection (1); and

(c) certify instructors for the training requirements of this section.

Amended by Chapter 146, 2014 General Session

**53-5-712. Armed Forces -- Permit requirements -- Exemptions.**

An active duty servicemember of the United States Armed Forces who possesses a Utah concealed firearm permit is exempt from the requirement in Subsection 53-5-704(4)(a) when renewing a Utah concealed firearm permit.

Enacted by Chapter 147, 2014 General Session

**53-5a-101. Title.**

This chapter is known as "Firearm Laws."

Renumbered and Amended by Chapter 382, 2008 General Session

**53-5a-102. Uniform firearm laws.**

(1) The individual right to keep and bear arms being a constitutionally protected right under Article I, Section 6 of the Utah Constitution, the Legislature finds the need to provide uniform civil and criminal firearm laws throughout the state.

(2) Except as specifically provided by state law, a local authority or state entity may not:

(a) prohibit an individual from owning, possessing, purchasing, selling, transferring, transporting, or keeping a firearm at the individual's place of residence, property, business, or in any vehicle lawfully in the individual's possession or lawfully under the individual's control; or

(b) require an individual to have a permit or license to purchase, own, possess, transport, or keep a firearm.

(3) In conjunction with Title 76, Chapter 10, Part 5, Weapons, this section is uniformly applicable throughout this state and in all its political subdivisions and municipalities.

(4) All authority to regulate firearms is reserved to the state except where the Legislature specifically delegates responsibility to local authorities or state entities.

(5) Unless specifically authorized by the Legislature by statute, a local authority or state entity may not enact, establish, or enforce any ordinance, regulation, rule, or policy pertaining to firearms that in any way inhibits or restricts the possession or use of firearms on either public or private property.

(6) As used in this section:

(a) "firearm" has the same meaning as defined in Section 76-10-501; and

(b) "local authority or state entity" includes public school districts, public schools, and state institutions of higher education.

(7) Nothing in this section restricts or expands private property rights.

Amended by Chapter 278, 2013 General Session

**53-5a-103. Discharge of firearm on private property -- Liability.**

(1) Except as provided under Subsection (2), a private property owner, who knowingly allows a person who has a permit to carry a concealed firearm under Section 53-5-704 to bring the firearm onto the owner's property, is not civilly or criminally liable for any damage or harm resulting from the discharge of the firearm by the permit holder while on the owner's property.

(2) Subsection (1) does not apply if the property owner solicits, requests, commands, encourages, or intentionally aids the concealed firearm permit holder in discharging the firearm while on the owner's property.

Enacted by Chapter 339, 2010 General Session

**53-5a-104. Firearm transfer certification.**

(1) As used in this section:

(a) "Certification" means the participation and assent of the chief law enforcement officer necessary under federal law for the approval of the application to transfer or make a firearm.

(b) "Chief law enforcement officer" means any official the Bureau of Alcohol, Tobacco, Firearms and Explosives, or any successor agency, identifies by regulation or otherwise as eligible to provide any required certification for the making or transfer of a firearm.

(c) "Firearm" has the same meaning as provided in the National Firearms Act, 6 U.S.C. Sec. 5845(a).

(2) A chief law enforcement officer may not make a certification under this section that the chief law enforcement officer knows to be untrue. The chief law enforcement officer may not refuse to provide certification based on a generalized objection to private persons or entities making, possessing, or receiving firearms or any certain type of firearm, the possession of which is not prohibited by law.

(3) Upon receiving a federal firearm transfer form a chief law enforcement officer

or the chief law enforcement officer's designee shall provide certification if the applicant:

(a) is not prohibited by law from receiving or possessing the firearm; or

(b) is not the subject of a proceeding that could result in the applicant being prohibited by law from receiving or possessing the firearm.

(4) The chief law enforcement officer, the chief law enforcement officer's designee, or official signing the federal transfer form shall:

(a) return the federal transfer form to the applicant within 15 calendar days; or

(b) if the applicant is denied, provide to the applicant the reasons for denial in writing within 15 calendar days.

(5) Chief law enforcement officers and their employees who act in good faith when acting within the scope of their duties are immune from liability arising from any act or omission in making a certification as required by this section. Any action taken against a chief law enforcement officer or an employee shall be in accordance with Title 63G, Chapter 7, Governmental Immunity Act of Utah.

Enacted by Chapter 431, 2014 General Session

**53-5b-101. Title.**

This chapter is known as the "Utah State-Made Firearms Protection Act."

Enacted by Chapter 5, 2010 General Session

**53-5b-102. Legal considerations.**

In reviewing any matter covered by this chapter, a court shall consider the following:

(1) The Tenth Amendment to the United States Constitution guarantees to the state and its people all powers not granted to the federal government elsewhere in the Constitution and reserves to the state and people of Utah certain powers as they were understood at the time that Utah was admitted to statehood.

(2) The guarantee of powers to the state and its people under the Tenth Amendment is a matter of contract between the state and people of Utah and the United States as of the time of statehood.

(3) The Ninth Amendment to the United States Constitution guarantees to the people rights not granted in the Constitution and reserves to the people of Utah certain rights as they were understood at the time that Utah was admitted to statehood.

(4) The guarantee of rights to the people under the Ninth Amendment is a matter of contract between the state and people of Utah and the United States as of the time of statehood.

(5) The regulation of intrastate commerce is vested in the state under the Ninth and Tenth Amendments to the United States Constitution.

(6) The Second Amendment to the United States Constitution reserves to the people the right to keep and bear arms as that right was understood at the time that Utah was admitted to statehood, and the guarantee of the right is a matter of contract between the state and people of Utah and the United States as of the time of statehood.

(7) The Utah Constitution clearly secures to Utah citizens, and prohibits government interference with, the right of individual Utah citizens to keep and bear arms.

(8) A personal firearm, a firearm action or receiver, a firearm accessory, or ammunition that is manufactured commercially or privately in the state to be used or sold within the state is not subject to federal law or federal regulation, including registration, under the authority of congress to regulate interstate commerce.

(9) The Legislature declares that a firearm, a firearm action or receiver, a firearm accessory, and ammunition described in Subsection (8) does not travel in interstate commerce.

(10) The importation into the state of generic and insignificant parts and those parts' incorporation into a firearm, a firearm action or receiver, a firearm accessory, or ammunition manufactured in the state does not subject the firearm, firearm accessory, firearm action or receiver, or ammunition to federal law or regulation.

(11) Basic materials, including unmachined steel and unshaped wood, are not firearms, firearm actions or receivers, firearms accessories, or ammunition.

(12) Trade in basic materials is not subject to congressional authority to regulate firearms, firearm actions or receivers, firearms accessories, and ammunition as if the basic materials were actually firearms, firearm actions or receivers, firearms accessories, or ammunition.

(13) Congress's authority to regulate interstate commerce in basic materials does not include authority to regulate firearms, firearm actions or receivers, firearms accessories, and ammunition made in the state from basic materials.

(14) The attachment or use of firearms accessories in conjunction with a firearm manufactured in the state does not subject the firearm to federal regulation under Congress's power to regulate interstate commerce, without regard to whether the firearms accessories are themselves subject to federal regulation.

Enacted by Chapter 5, 2010 General Session

**53-5b-103. Definitions.**

As used in this chapter:

(1) "Firearm" means a device from which is expelled a projectile by action of an explosive.

(2) "Firearm accessory" means an item that is used in conjunction with or mounted upon a firearm, firearm action, or firearm receiver but is not essential to the basic function of a firearm, including:

(a) a telescopic or laser sight;

(b) a magazine;

(c) a flash or sound suppressor;

(d) a folding or aftermarket stock or grip;

(e) a speed-loader;

(f) an ammunition carrier; and

(g) a light for target illumination.

(3) "Generic and insignificant parts:"

(a) means parts that have other manufacturing or consumer product

applications; and
(b) includes:
(i) springs;
(ii) screws;
(iii) nuts; and
(iv) pins.
(4) "Manufactured" means creating a firearm, a firearm action or receiver, a firearm accessory, or ammunition from basic materials for functional usefulness, including:
(a) forging;
(b) casting;
(c) machining; and
(d) another process for working materials.

Enacted by Chapter 5, 2010 General Session

**53-5b-201. Intrastate firearm manufacturing.**
(1) This chapter applies to a firearm, a firearm action or receiver, a firearm accessory, or ammunition that is manufactured in the state to remain in the state from basic materials that can be manufactured without the inclusion of any significant parts imported into the state.
(2) This chapter does not apply to:
(a) a firearm that cannot be carried and used by one person;
(b) a firearm that has a bore diameter greater than 1-1/2 inches and that uses smokeless powder, not black powder, as a propellant;
(c) a firearm that discharges two or more projectiles with one activation of the trigger or other firing device, other than a shotgun; or
(d) ammunition with a projectile that explodes using an explosion of chemical energy after the projectile leaves the firearm.

Enacted by Chapter 5, 2010 General Session

**53-5b-202. Required markings.**
A firearm, firearm action, or firearm receiver manufactured or sold in Utah under this chapter must have the words "Made in Utah" or "Made in UT" clearly stamped on a central metallic part, such as the receiver or frame.

Enacted by Chapter 5, 2010 General Session

**53-5c-101. Title.**
This chapter is known as "Firearms Safe Harbor."

Enacted by Chapter 188, 2013 General Session

**53-5c-102. Definitions.**
(1) "Cohabitant" means a person who is 21 years of age or older who resides in

the same residence as the other party.

(2) "Firearm" means a pistol, revolver, shotgun, short barrel shotgun, rifle or short barrel rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(3) "Illegal firearm" means a firearm the ownership or possession of which is prohibited under state or federal law.

(4) "Law enforcement agency" means a municipal or county police agency or an officer of that agency.

(5) "Owner cohabitant" means a cohabitant who owns, in whole or in part, a firearm.

(6) "Public interest use" means:

(a) use by a government agency as determined by the legislative body of the agency's jurisdiction; or

(b) donation to a bona fide charity.

Enacted by Chapter 188, 2013 General Session

**53-5c-201. Voluntary commitment of a firearm by owner cohabitant -- Law enforcement to hold firearm.**

(1) (a) An owner cohabitant may voluntarily commit a firearm to a law enforcement agency for safekeeping if the owner cohabitant believes that another cohabitant is an immediate threat to:

(i) himself or herself;

(ii) the owner cohabitant; or

(iii) any other person.

(b) A law enforcement agency may not hold a firearm under this section if the law enforcement agency obtains the firearm in a manner other than the owner cohabitant voluntarily presenting, of his or her own free will, the firearm to the law enforcement agency at the agency's office.

(2) Unless a firearm is an illegal firearm subject to Section 53-5c-202, a law enforcement agency that receives a firearm in accordance with this chapter shall:

(a) record:

(i) the owner cohabitant's name, address, and phone number;

(ii) the firearm serial number; and

(iii) the date that the firearm was voluntarily committed;

(b) require the owner cohabitant to sign a document attesting that the owner cohabitant has an ownership interest in the firearm;

(c) hold the firearm in safe custody for 60 days after the day on which it is voluntarily committed; and

(d) upon proof of identification, return the firearm to:

(i) the owner cohabitant after the expiration of the 60-day period or, if the owner cohabitant requests return of the firearm before the expiration of the 60-day period, at the time of the request; or

(ii) to an owner other than the owner cohabitant in accordance with Section 53-5c-202.

(3) The law enforcement agency shall hold the firearm for an additional 60 days:

(a) if the initial 60-day period expires; and

(b) the owner cohabitant requests that the law enforcement agency hold the firearm for an additional 60 days.

(4) A law enforcement agency may not request or require that the owner cohabitant provide the name or other information of the cohabitant who poses an immediate threat or any other cohabitant.

(5) Notwithstanding an ordinance or policy to the contrary adopted in accordance with Section 63G-2-701, a law enforcement agency shall destroy a record created under Subsection (2), Subsection 53-5c-202(4)(b)(iii), or any other record created in the application of this chapter no later than five days after:

(a) returning a firearm in accordance with Subsection (2)(d); or

(b) appropriating, selling, or destroying the firearm in accordance with Section 53-5c-202.

(6) Unless otherwise provided, the provisions of Title 77, Chapter 24, Disposal of Property Received by Peace Officer, do not apply to a firearm received by a law enforcement agency in accordance with this chapter.

(7) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held in accordance with this chapter.

Enacted by Chapter 188, 2013 General Session

**53-5c-202. Illegal firearms confiscated -- Disposition of unclaimed firearm.**

(1) If a law enforcement agency receives a firearm in accordance with Section 53-5c-201, and the firearm is an illegal firearm, the law enforcement agency shall:

(a) notify the owner cohabitant attempting to voluntarily commit the firearm that the firearm is an illegal firearm; and

(b) confiscate the firearm and dispose of it as the head of the law enforcement agency determines.

(2) (a) If a law enforcement agency cannot, after a reasonable attempt, locate an owner cohabitant to return a firearm in accordance with Section 53-5c-201, the law enforcement agency may:

(i) appropriate the firearm to public interest use as provided in Subsection (3);

(ii) sell the firearm at public auction as provided by law and appropriate the proceeds of the sale to public interest use; or

(iii) destroy the firearm if unfit for sale.

(b) A law enforcement agency may take an action in accordance with Subsection (2)(a) no earlier than one year after the day on which the owner cohabitant initially voluntarily commits the firearm in accordance with Section 53-5c-201.

(3) Before appropriating the firearm to public interest use, the law enforcement agency, having possession of the firearm, shall obtain from the legislative body of its jurisdiction:

(a) permission to appropriate the firearm to public interest use; and

(b) the designation and approval of the public interest use of the firearm.

(4) (a) If a person other than an owner cohabitant who voluntarily commits a firearm in accordance with Section 53-5c-201 claims ownership of the firearm, the person may:

(i) request that the law enforcement agency return the firearm in accordance with Subsection (4)(b); or

(ii) petition the court for the firearm's return in accordance with Subsection (4)(c).

(b) Except as provided in Section 53-5c-201, the law enforcement agency shall return a firearm to a person other than an owner cohabitant who claims ownership of the firearm if:

(i) the 60-day period described in Section 53-5c-201 has expired;

(ii) the person provides identification; and

(iii) the person signs a document attesting that the person has an ownership interest in the firearm.

(c) After sufficient notice is given to the prosecutor, the court may order that the firearm be:

(i) returned to the rightful owner as determined by the court;

(ii) converted to public interest use; or

(iii) destroyed.

(d) A law enforcement agency shall return a firearm ordered returned to the rightful owner as expeditiously as possible after a court determination.

Enacted by Chapter 188, 2013 General Session

**53-6-101. Short title.**

This chapter is known as the "Peace Officer Standards and Training Act."

Enacted by Chapter 234, 1993 General Session

**53-6-102. Definitions.**

As used in this chapter:

(1) "Addiction" means the unlawful or habitual use of alcohol or a controlled substance which endangers public health and safety.

(2) "Certified academy" means a peace officer training institution certified in accordance with the standards developed under Section 53-6-105.

(3) "Council" means the Peace Officer Standards and Training Council created in Section 53-6-106.

(4) "Conviction" means an adjudication of guilt regarding criminal conduct, including:

(a) a finding of guilt by a court or a jury;

(b) a guilty plea;

(c) a plea of nolo contendere;

(d) a plea which is held in abeyance pending the successful completion of:

(i) a probationary period; or

(ii) a diversion agreement; or

(e) a conviction which has been expunged or dismissed.

(5) "Director" means the director of the Peace Officer Standards and Training Division appointed under Section 53-6-104.

(6) "Dispatcher" means an employee of a public safety agency of the state or any of its political subdivisions and whose primary duties are to:

(a) (i) receive calls for one or a combination of, emergency police, fire, and medical services, and to dispatch the appropriate personnel and equipment in response to the calls; and

(ii) in response to emergency calls, make urgent decisions affecting the life, health, and welfare of the public and public safety employees; or

(b) supervise dispatchers or direct a dispatch communication center.

(7) "Division" means the Peace Officer Standards and Training Division created in Section 53-6-103.

(8) "POST" means the division.

Amended by Chapter 313, 2010 General Session

**53-6-103. Peace Officer Standards and Training Division -- Creation -- Administration -- Duties.**

(1) There is created within the department the Peace Officer Standards and Training Division.

(2) The division shall be administered by a director acting under the supervision and control of the commissioner.

(3) The division shall promote and ensure the safety and welfare of the citizens of this state in their respective communities and provide for efficient and professional law enforcement by establishing minimum standards and training for peace officers and dispatchers throughout the state.

Amended by Chapter 134, 1995 General Session

**53-6-104. Appointment of director of division -- Qualifications -- Appointment of employees -- Term of office -- Compensation.**

(1) The commissioner, upon recommendation of the council and with the approval of the governor, shall appoint a director of the division.

(2) The director is the executive and administrative head of the division and shall be experienced in administration and possess additional qualifications as determined by the commissioner and as provided by law.

(3) The director shall be a full-time officer of the state.

(4) The director may appoint deputies, consultants, clerks, and other employees from eligibility lists authorized by the Department of Human Resource Management.

(5) The director may be removed from his position at the will of the commissioner.

(6) The director shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

Amended by Chapter 139, 2006 General Session

**53-6-105. Duties of director -- Powers -- Rulemaking.**

(1) The director, with the advice of the council, shall:

(a) prescribe standards for the certification of a peace officer training academy, certify an academy that meets the prescribed standards, and prescribe standards for

revocation of certification for cause;

(b) prescribe minimum qualifications for certification of peace officers appointed or elected to enforce the laws of this state and its subdivisions and prescribe standards for revocation of certification for cause;

(c) establish minimum requirements for the certification of training instructors and establish standards for revocation of certification;

(d) provide for the issuance of appropriate certificates to those peace officers completing the basic training programs offered by a certified academy or those persons who pass a certification examination as provided for in this chapter;

(e) consult and cooperate with certified academy administrators and instructors for the continued development and improvement of the basic training programs provided by the certified academy and for the further development and implementation of advanced in-service training programs;

(f) consult and cooperate with state institutions of higher education to develop specialized courses of study for peace officers in the areas of criminal justice, police administration, criminology, social sciences, and other related disciplines;

(g) consult and cooperate with other departments, agencies, and local governments concerned with peace officer training;

(h) perform any other acts necessary to develop peace officer training programs within the state;

(i) report to the council at regular meetings of the council and when the council requires;

(j) recommend peace officer standards and training requirements to the commissioner, governor, and the Legislature; and

(k) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director shall, with the advice of the council, make rules necessary to administer this chapter.

(2) With the permission of the commissioner, the director may execute contracts on behalf of the division with criminal justice agencies to provide training for employees of those agencies if:

(a) the employees or the employing agency pay a registration fee equivalent to the cost of the training; and

(b) the contract does not reduce the effectiveness of the division in its primary responsibility of providing training for peace officers of the state.

(3) The director may:

(a) revoke certification of a certified academy for cause; and

(b) make training aids and materials available to local law enforcement agencies.

(4) The director shall, with the advice of the council, make rules:

(a) establishing minimum requirements for the certification of dispatcher training instructors in a certified academy or interagency program and standards for revocation of this certification;

(b) establishing approved curriculum and a basic schedule for the basic dispatcher training course and the content of the dispatcher certification examination;

(c) providing for the issuance of appropriate certificates to a person who completes the basic dispatcher course or who passes a dispatcher certification

examination as provided for in this chapter;

(d) establishing approved courses for certified dispatchers' annual training; and

(e) establishing a reinstatement procedure for a certified dispatcher who has not obtained the required annual training hours.

Amended by Chapter 313, 2010 General Session

**53-6-106. Creation of Peace Officer Standards and Training Council -- Purpose -- Membership -- Quorum -- Meetings -- Compensation.**

(1) There is created the Peace Officer Standards and Training Council.

(2) The council shall serve as an advisory board to the director of the division on matters relating to peace officer and dispatcher standards and training.

(3) The council includes:

(a) the attorney general or a designated representative;

(b) the superintendent of the highway patrol or a designated representative;

(c) the executive director of the Department of Corrections or a designated representative; and

(d) 14 additional members appointed by the governor having qualifications, experience, or education in the field of law enforcement as follows:

(i) one incumbent mayor;

(ii) one incumbent county commissioner;

(iii) three incumbent sheriffs, one of whom is a representative of the Utah Sheriffs Association, one of whom is from a county having a population of 100,000 or more, and one of whom is from a county having a population of less than 100,000;

(iv) three incumbent police chiefs, one of whom is a representative of the Utah Chiefs of Police Association, one of whom is from a city of the first or second class, and one of whom is from a city of the third, fourth, or fifth class or town;

(v) a representative of the Utah Peace Officers Association;

(vi) an educator in the field of public administration, criminal justice, or a related area; and

(vii) four persons selected at large by the governor.

(4) (a) Except as required by Subsection (4)(b), the 14 members of the council shall be appointed by the governor for four-year terms.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(c) A member may be reappointed for additional terms.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor from the same category in which the vacancy occurs.

(5) A member of the council ceases to be a member:

(a) immediately upon the termination of the member's holding the office or employment that was the basis for eligibility to membership on the council; or

(b) upon two unexcused absences in one year from regularly scheduled council meetings.

(6) The council shall select a chair and vice chair from among its members.
(7) Ten members of the advisory council constitute a quorum.
(8) (a) Meetings may be called by the chair, the commissioner, or the director and shall be called by the chair upon the written request of nine members.
(b) Meetings shall be held at the times and places determined by the director.
(9) The council shall meet at least two times per year.
(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
(a) Section 63A-3-106;
(b) Section 63A-3-107; and
(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
(11) Membership on the council does not disqualify any member from holding any other public office or employment.

Amended by Chapter 108, 2012 General Session
Amended by Chapter 296, 2012 General Session

**53-6-107. General duties of council.**
(1) The council shall:
(a) advise the director regarding:
(i) the approval, certification, or revocation of certification of any certified academy established in the state;
(ii) the refusal, suspension, or revocation of certification of a peace officer;
(iii) minimum courses of study, attendance requirements, and the equipment and facilities to be required at a certified academy;
(iv) minimum qualifications for instructors at a certified academy;
(v) the minimum basic training requirements that peace officers shall complete before receiving certification;
(vi) the minimum basic training requirements that dispatchers shall complete before receiving certification; and
(vii) categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements for the categories or classifications;
(b) recommend that studies, surveys, or reports, or all of them be made by the director concerning the implementation of the objectives and purposes of this chapter;
(c) make recommendations and reports to the commissioner and governor from time to time; and
(d) perform other acts as necessary to carry out the duties of the council in this chapter.
(2) The council may approve special function officers for membership in the Public Safety Retirement System in accordance with Sections 49-14-201 and 49-15-201.

Amended by Chapter 250, 2002 General Session

**53-6-108. Donations, contributions, grants, gifts, bequests, devises, or endowments -- Authority to accept -- Disposition.**

(1) The division may accept any donations, contributions, grants, gifts, bequests, devises, or endowments of money or property, which shall be the property of the state.

(2) (a) If the donor directs that the money or property be used in a specified manner, then the division shall use it in accordance with these directions and state law.

(b) All money and the proceeds from donated property not disposed of under Subsection (2)(a) shall be deposited in the General Fund as restricted revenue for the division.

Amended by Chapter 324, 2010 General Session

**53-6-201. Short title.**

This part is known as the "Peace Officer Training and Certification Act."

Enacted by Chapter 234, 1993 General Session

**53-6-202. Basic training course -- Completion required -- Annual training -- Prohibition from exercising powers -- Reinstatement.**

(1) (a) The director shall:

(i) (A) suggest and prepare subject material; and

(B) schedule instructors for basic training courses; or

(ii) review the material and instructor choices submitted by a certified academy.

(b) The subject material, instructors, and schedules shall be approved or disapproved by a majority vote of the council.

(2) The materials shall be reviewed and approved by the council on or before July 1st of each year and may from time to time be changed or amended by majority vote of the council.

(3) The basic training in a certified academy shall be appropriate for the basic training of peace officers in the techniques of law enforcement in the discretion of the director.

(4) (a) All peace officers must satisfactorily complete the basic training course or the waiver process provided for in this chapter as well as annual certified training of not less than 40 hours as the director, with the advice and consent of the council, directs.

(b) A peace officer who fails to satisfactorily complete the annual training shall automatically be prohibited from exercising peace officer powers until any deficiency is made up.

Amended by Chapter 313, 2010 General Session

**53-6-203. Applicants for admission to training programs or for certification examination -- Requirements.**

(1) Before being accepted for admission to the training programs conducted by a certified academy, and before being allowed to take a certification examination, each applicant for admission or certification examination shall meet the following requirements:

(a) be a United States citizen;

(b) be at least 21 years old at the time of certification as a special function officer or correctional officer;

(c) be a high school graduate or furnish evidence of successful completion of an examination indicating an equivalent achievement;

(d) have not been convicted of a crime for which the applicant could have been punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of this or another state;

(e) have demonstrated good moral character, as determined by a background investigation; and

(f) be free of any physical, emotional, or mental condition that might adversely affect the performance of the applicant's duties as a peace officer.

(2) (a) An application for admission to a training program shall be accompanied by a criminal history background check of local, state, and national criminal history files and a background investigation.

(b) The costs of the background check and investigation shall be borne by the applicant or the applicant's employing agency.

(3) (a) Notwithstanding any expungement statute or rule of any other jurisdiction, any conviction obtained in this state or other jurisdiction, including a conviction that has been expunged, dismissed, or treated in a similar manner to either of these procedures, may be considered for purposes of this section.

(b) This provision applies to convictions entered both before and after the effective date of this section.

(4) Any background check or background investigation performed pursuant to the requirements of this section shall be to determine eligibility for admission to training programs or qualification for certification examinations and may not be used as a replacement for any background investigations that may be required of an employing agency.

(5) An applicant shall be considered to be of good moral character under Subsection (1)(e) if the applicant has not engaged in conduct that would be a violation of Subsection 53-6-211(1).

(6) An applicant seeking certification as a law enforcement officer, as defined in Section 53-13-103, shall be qualified to possess a firearm under state and federal law.

Amended by Chapter 115, 2013 General Session
Amended by Chapter 451, 2013 General Session

**53-6-204. Time of application for admission to training program.**

At the time a person is employed or appointed as a peace officer, the chief executive officer of the agency employing or appointing shall submit to a certified academy an application together with the required background information required under Section 53-6-203.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-6-205. Completion of training course required -- Persons affected.**

(1) (a) Except as provided in Subsection (2), before a person may be certified as a peace officer in Utah the person shall:

(i) successfully complete the basic training course at a certified academy;

(ii) pass the certification examination; and

(iii) pass a physical fitness test.

(b) A person may not exercise peace officer authority until certified.

(2) Subsection (1) applies only to persons not previously certified and who receive their first employment appointment or election as a peace officer in Utah on or after January 1, 1985.

Amended by Chapter 58, 2011 General Session

**53-6-206. Waiver of training course requirement.**

(1) The division may waive the required basic peace officer training course and certify an applicant who:

(a) provides proof that the applicant meets the requirements under Section 53-6-203 relating to qualifications for admission to the training course;

(b) provides proof that the applicant has completed a basic peace officer training program that the division determines is equivalent to the course required for certification under this part;

(c) passes the certification examination;

(d) passes a physical fitness test; and

(e) provides proof that within the previous four years the applicant either:

(i) completed the basic peace officer training program for which the applicant is seeking credit; or

(ii) was actively engaged in performing the duties of a peace officer.

(2) A waiver applicant may not exercise peace officer authority until all waiver process requirements have been met and the applicant has been certified.

(3) If an applicant fails the examination under Subsection (1)(c), the division may not waive the required basic peace officer training course and the applicant shall comply with all of the requirements in Subsection 53-6-205(1) to be certified as a peace officer in Utah.

Amended by Chapter 296, 2012 General Session

**53-6-207. Municipalities may set higher minimum standards.**

The minimum standards in this part concerning peace officer qualifications and training do not preclude counties, cities, or towns from establishing standards higher than the minimum standards contained in this part.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-6-208. Inactive certificates -- Lapse of certificate -- Reinstatement.**

(1) (a) The certificate of a peace officer who has not been actively engaged in performing the duties as a certified and sworn peace officer for 18 consecutive months or more, but less than four consecutive years, is designated "inactive."

(b) A peace officer whose certificate is inactive shall pass the certification examination and a physical fitness test before the certificate may be reissued or reinstated.

(2) (a) The certificate of a peace officer who has not been actively engaged in performing the duties as a certified and sworn peace officer for four continuous years or more is designated as "lapsed."

(b) A peace officer whose certificate is lapsed shall pass the basic training course at a certified academy, the certification examination, and a physical fitness test before the certificate may be reissued or reinstated.

Amended by Chapter 246, 2014 General Session

**53-6-209. Termination of employment -- Change of status form.**

(1) When a peace officer's employment terminates, the employing agency shall submit a change of status form noting the termination of the peace officer to the division.

(2) The change of status form shall:

(a) be completed and submitted within seven days of the peace officer's termination date;

(b) identify the circumstances of the peace officer's status change by indicating that the peace officer has resigned, retired, terminated, transferred, deceased, or that the peace officer's name has changed;

(c) indicate the effective date of action; and

(d) indicate the name of the new employer, if the status change is due to a transfer.

(3) Any person or agency who intentionally falsifies, misrepresents, or fails to give notice of the change of status of a peace officer is liable to the division for any damages that may be sustained by the failure to make the notification.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-6-210. Investigations and certification hearings -- Powers of division -- Violation.**

(1) For investigations by the division and for certification hearings or other testimony before the council, the division may administer oaths and affirmations, subpoena witnesses, take evidence, and require by subpoena duces tecum the production of relevant papers, records, or other documents or information, whether filed or kept in original form, or electronically stored or recorded.

(2) A person who willfully disobeys a properly served subpoena issued by the division is guilty of a class B misdemeanor.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-6-211. Suspension or revocation of certification -- Right to a hearing -- Grounds -- Notice to employer -- Reporting -- Judicial appeal.**

(1) The council has authority to suspend or revoke the certification of a peace

officer, if the peace officer:

(a) willfully falsifies any information to obtain certification;

(b) has any physical or mental disability affecting the peace officer's ability to perform duties;

(c) is addicted to alcohol or any controlled substance, unless the peace officer reports the addiction to the employer and to the director as part of a departmental early intervention process;

(d) engages in conduct which is a state or federal criminal offense, but not including a traffic offense that is a class C misdemeanor or infraction;

(e) refuses to respond, or fails to respond truthfully, to questions after having been issued a warning issued based on Garrity v. New Jersey, 385 U.S. 493 (1967);

(f) engages in sexual conduct while on duty; or

(g) is certified as a law enforcement officer, as defined in Section 53-13-103, and is unable to possess a firearm under state or federal law.

(2) The council may not suspend or revoke the certification of a peace officer for a violation of a law enforcement agency's policies, general orders, or guidelines of operation that do not amount to a cause of action under Subsection (1).

(3) (a) The division is responsible for investigating officers who are alleged to have engaged in conduct in violation of Subsection (1).

(b) The division shall initiate all adjudicative proceedings under this section by providing to the peace officer involved notice and an opportunity for a hearing before an administrative law judge.

(c) All adjudicative proceedings under this section are civil actions, notwithstanding whether the issue in the adjudicative proceeding is a violation of statute that may be prosecuted criminally.

(d) (i) The burden of proof on the division in an adjudicative proceeding under this section is by clear and convincing evidence.

(ii) If a peace officer asserts an affirmative defense, the peace officer has the burden of proof to establish the affirmative defense by a preponderance of the evidence.

(e) If the administrative law judge issues findings of fact and conclusions of law stating there is sufficient evidence to demonstrate that the officer engaged in conduct that is in violation of Subsection (1), the division shall present the finding and conclusions issued by the administrative law judge to the council.

(f) The division shall notify the chief, sheriff, or administrative officer of the police agency which employs the involved peace officer of the investigation and shall provide any information or comments concerning the peace officer received from that agency regarding the peace officer to the council before a peace officer's certification may be suspended or revoked.

(g) If the administrative law judge finds that there is insufficient evidence to demonstrate that the officer is in violation of Subsection (1), the administrative law judge shall dismiss the adjudicative proceeding.

(4) (a) The council shall review the findings of fact and conclusions of law and the information concerning the peace officer provided by the officer's employing agency and determine whether to suspend or revoke the officer's certification.

(b) A member of the council shall recuse him or herself from consideration of an

issue that is before the council if the council member:

(i) has a personal bias for or against the officer;

(ii) has a substantial pecuniary interest in the outcome of the proceeding and may gain or lose some benefit from the outcome; or

(iii) employs, supervises, or works for the same law enforcement agency as the officer whose case is before the council.

(5) (a) Termination of a peace officer, whether voluntary or involuntary, does not preclude suspension or revocation of a peace officer's certification by the council if the peace officer was terminated for any of the reasons under Subsection (1).

(b) Employment by another agency, or reinstatement of a peace officer by the original employing agency after termination by that agency, whether the termination was voluntary or involuntary, does not preclude suspension or revocation of a peace officer's certification by the council if the peace officer was terminated for any of the reasons under Subsection (1).

(6) A chief, sheriff, or administrative officer of a law enforcement agency who is made aware of an allegation against a peace officer employed by that agency that involves conduct in violation of Subsection (1) shall investigate the allegation and report to the division if the allegation is found to be true.

(7) The council's suspension or revocation of an officer's certification under Subsection (4) may be appealed under Title 63G, Chapter 4, Part 4, Judicial Review.

Amended by Chapter 115, 2013 General Session
Amended by Chapter 269, 2013 General Session

**53-6-211.5. Voluntary relinquishment of peace officer certification.**

(1) A peace officer may voluntarily relinquish the peace officer's certification to the division at any time when a disciplinary issue regarding the peace officer has been referred to the division.

(2) (a) A peace officer who voluntarily relinquishes certification under this section may not subsequently be certified as a peace officer in this state.

(b) This section does not apply to a peace officer whose certification has become inactive or has lapsed as provided in Section 53-6-208.

Amended by Chapter 246, 2014 General Session

**53-6-212. Responsibility for training -- Certification.**

(1) The division is not responsible for providing basic or in-service training for peace officers defined and designated in Sections 53-13-104 through 53-13-106 except for approval of the instructors and content of training where required by this chapter, Title 53, Chapter 13, Peace Officer Classifications, or division rules.

(2) Where this chapter or Title 53, Chapter 13, Peace Officer Classifications, requires an agency head to certify that a member has completed required training, the division shall rely on the certification, as provided, to be accurate.

Amended by Chapter 92, 1999 General Session

**53-6-213. Appropriations from reparation fund.**

(1) The Legislature shall appropriate from the fund established in Title 63M, Chapter 7, Part 5, Utah Office for Victims of Crime, to the division, funds for training of law enforcement officers in the state.

(2) The department shall make an annual report to the Legislature, which includes the amount received during the previous fiscal year.

Amended by Chapter 131, 2011 General Session

**53-6-301. Title.**

This part is known as the "Dispatcher Training and Certification Act."

Enacted by Chapter 134, 1995 General Session

**53-6-302. Applicants for certification examination -- Requirements.**

(1) Before being allowed to take a dispatcher certification examination, each applicant shall meet the following requirements:

(a) be a United States citizen;

(b) be 18 years of age or older at the time of employment as a dispatcher;

(c) be a high school graduate or have a G.E.D. equivalent;

(d) have not been convicted of a crime for which the applicant could have been punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of this or another state;

(e) have demonstrated good moral character, as determined by a background investigation; and

(f) be free of any physical, emotional, or mental condition that might adversely affect the performance of the applicant's duty as a dispatcher.

(2) (a) An application for certification shall be accompanied by a criminal history background check of local, state, and national criminal history files and a background investigation.

(b) The costs of the background check and investigation shall be borne by the applicant or the applicant's employing agency.

(3) (a) Notwithstanding Title 77, Chapter 40, Utah Expungement Act, regarding expungements, or a similar statute or rule of any other jurisdiction, any conviction obtained in this state or other jurisdiction, including a conviction that has been expunged, dismissed, or treated in a similar manner to either of these procedures, may be considered for purposes of this section.

(b) Subsection (3)(a) applies to convictions entered both before and after May 1, 1995.

(4) Any background check or background investigation performed pursuant to the requirements of this section shall be to determine eligibility for admission to training programs or qualification for certification examinations and may not be used as a replacement for any background investigations that may be required of an employing agency.

(5) An applicant is considered to be of good moral character under Subsection (1)(e) if the applicant has not engaged in conduct that would be a violation of

Subsection 53-6-309(1).

Amended by Chapter 258, 2011 General Session

**53-6-303. Completion of certification examination required -- Persons affected.**

(1) Except as provided in Subsection (2), a person must successfully complete the basic dispatcher training course and pass the certification examination according to the requirements of this part before that person can be a certified dispatcher.

(2) Subsection (1) applies only to persons not previously certified and who receive their first employment as a dispatcher in this state on or after July 1, 1996.

Enacted by Chapter 134, 1995 General Session

**53-6-304. Waiver of training course requirement.**

(1) The director may waive the required basic dispatcher training course and certify an applicant who:

(a) provides evidence that the applicant meets the requirements under Section 53-6-302, relating to qualifications for admission to the training course;

(b) provides evidence that the applicant has completed a basic dispatcher training program that, in the director's judgment, is equivalent to the course required for certification under this part; and

(c) passes the certification examination.

(2) An applicant who fails the examination under Subsection (1)(c) shall complete the basic dispatcher training course and pass the certification examination to become certified.

Amended by Chapter 258, 2011 General Session

**53-6-305. Local governments -- Option -- Higher minimum standards.**

(1) Participation in dispatcher training and certification under this part is at the option of the legislative body of each county or municipality that employs dispatchers.

(2) The minimum standards in this part concerning dispatcher qualifications and training do not preclude counties or municipalities from establishing standards higher than the minimum standards contained in this part.

Enacted by Chapter 134, 1995 General Session

**53-6-306. Inactive and lapsed certificates -- Reissuance or reinstatement -- Annual training requirement.**

(1) (a) The certificate of a dispatcher who has not been actively engaged in performing the duties of a dispatcher for 18 consecutive months or more is designated "inactive."

(b) A dispatcher whose certificate is inactive shall pass the certification examination before the certificate may be reissued or reinstated.

(2) (a) The certificate of a dispatcher who has not been actively engaged in

performing the duties of a dispatcher for four continuous years shall be designated "lapsed."

(b) A dispatcher whose certificate has lapsed shall successfully complete the basic training course and pass the certification examination before the certificate may be reissued or reinstated.

(3) (a) A certified dispatcher shall complete annual training approved by the director of 20 hours or more.

(b) If a dispatcher fails to satisfactorily complete the annual training, the dispatcher's certificate shall be suspended until any deficiency in the annual training is remedied.

Amended by Chapter 258, 2011 General Session

**53-6-307. Termination of employment -- Change of status form.**

(1) When a certified dispatcher's employment terminates or a certified dispatcher's status changes, the employing agency shall submit a change of status form noting the termination of the certified dispatcher to the division.

(2) The change of status form shall:

(a) be completed and submitted within 30 days of the certified dispatcher's termination date;

(b) identify the circumstances of the certified dispatcher's status change by indicating that the certified dispatcher has resigned, retired, terminated, transferred, deceased, or that the certified dispatcher's name has changed;

(c) indicate the effective date of action; and

(d) indicate the name of the new employer, if the status change is due to a transfer.

(3) Any person or agency who intentionally falsifies, misrepresents, or fails to give notice of the change of status of a certified dispatcher is liable to the division for any damages that may be sustained by the failure to make the notification.

Enacted by Chapter 134, 1995 General Session

**53-6-308. Investigations and certification hearings -- Powers of division -- Violation.**

(1) For investigations by the division and for certification hearings or other testimony before the council, the division may administer oaths and affirmations, subpoena witnesses, take evidence, and require by subpoena duces tecum the production of relevant papers, records, or other documents or information, whether filed or kept in original form, or electronically stored or recorded.

(2) A person who willfully disobeys a properly served subpoena issued by the division is guilty of a class B misdemeanor.

Enacted by Chapter 134, 1995 General Session

**53-6-309. Suspension or revocation of certification -- Right to a hearing -- Grounds -- Notice to employer -- Reporting.**

(1) The council has authority to suspend or revoke the certification of a dispatcher, if the dispatcher:

(a) willfully falsifies any information to obtain certification;

(b) has any physical or mental disability affecting the dispatcher's ability to perform duties;

(c) is addicted to alcohol or any controlled substance, unless the dispatcher reports the addiction to the employer and to the director as part of a departmental early intervention process;

(d) engages in conduct that is a state or federal criminal offense, but not including a traffic offense that is a class C misdemeanor or infraction;

(e) refuses to respond, or fails to respond truthfully, to questions after having been issued a warning based on Garrity v. New Jersey, 385 U.S. 493 (1967); or

(f) engages in sexual conduct while on duty.

(2) The council may not suspend or revoke the certification of a dispatcher for a violation of the employing agency's policies, general orders, or guidelines of operation that do not amount to a cause of action under Subsection (1).

(3) (a) The division is responsible for investigating dispatchers who are alleged to have engaged in conduct in violation of Subsection (1).

(b) The division shall initiate all adjudicative proceedings under this section by providing to the dispatcher involved notice and an opportunity for a hearing before an administrative law judge.

(c) All adjudicative proceedings under this section are civil actions, notwithstanding whether the issue in the adjudicative proceeding is a violation of statute that may be prosecuted criminally.

(d) (i) The burden of proof on the division in an adjudicative proceeding under this section is by clear and convincing evidence.

(ii) If a dispatcher asserts an affirmative defense, the dispatcher has the burden of proof to establish the affirmative defense by a preponderance of the evidence.

(e) If the administrative law judge issues findings of fact and conclusions of law stating there is sufficient evidence to demonstrate that the dispatcher engaged in conduct that is in violation of Subsection (1), the division shall present the findings and conclusions issued by the administrative law judge to the council.

(f) The division shall notify the agency that employs the involved dispatcher of the investigation and shall provide any information or comments concerning the dispatcher received from that agency regarding the dispatcher to the council before a dispatcher's certification may be suspended or revoked.

(g) If the administrative law judge finds that there is insufficient evidence to demonstrate that the dispatcher is in violation of Subsection (1), the administrative law judge shall dismiss the adjudicative proceeding.

(4) (a) The council shall review the findings of fact and conclusions of law and the information concerning the dispatcher provided by the dispatcher's employing agency and determine whether to suspend or revoke the dispatcher's certification.

(b) A council member shall recuse himself or herself from consideration of an issue that is before the council if the council member:

(i) has a personal bias for or against the dispatcher;

(ii) has a substantial pecuniary interest in the outcome of the proceeding and

may gain or lose some benefit from the outcome; or

(iii) employs, supervises, or works for the same agency as the dispatcher whose case is before the council.

(5) (a) Termination of a dispatcher, whether voluntary or involuntary, does not preclude suspension or revocation of a dispatcher's certification by the council if the dispatcher was terminated for any of the reasons under Subsection (1).

(b) Employment by another agency, or reinstatement of a dispatcher by the original employing agency after termination by that agency, whether the termination was voluntary or involuntary, does not preclude suspension or revocation of a dispatcher's certification by the council if the dispatcher was terminated for any of the reasons under Subsection (1).

(6) An agency that is made aware of an allegation against a dispatcher employed by that agency that involves conduct in violation of Subsection (1) shall investigate the allegation and report to the division if the allegation is found to be true.

Repealed and Re-enacted by Chapter 258, 2011 General Session

**53-6-310. Responsibility for training -- Certification.**

(1) The division is not responsible for providing basic or in-service training for certified dispatchers except for approval of the instructors and content of training where required by this chapter or division rules.

(2) Where this chapter requires an agency head to certify that a member has completed required training, the division shall rely on the certification, as provided, to be accurate.

Enacted by Chapter 134, 1995 General Session

**53-6-311. Voluntary relinquishment of dispatcher certification.**

(1) (a) A dispatcher may voluntarily relinquish the dispatcher's certification to the division at any time when a disciplinary issue regarding the dispatcher has been referred to the division.

(b) A dispatcher who voluntarily relinquishes certification under this Subsection (1) may not subsequently be certified as a dispatcher in Utah.

(2) Subsection (1) does not apply to a dispatcher whose certification has become inactive as provided in Section 53-6-306.

Enacted by Chapter 258, 2011 General Session

**53-7-101. Short title.**

This chapter is known as the "Utah Fire Prevention and Safety Act."

Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-102. Definitions.**

As used in this chapter:

(1) "Board" means the Utah Fire Prevention Board created in Section 53-7-203,

except as provided in Part 3, Liquefied Petroleum Gas Act.

(2) "Director" means the state fire marshal appointed in accordance with Section 53-7-103.

(3) "Division" means the State Fire Marshal Division created in Section 53-7-103.

(4) "Fire officer" means:

(a) the state fire marshal;

(b) the state fire marshal's deputies or salaried assistants;

(c) the fire chief or fire marshal of any county, city, or town fire department;

(d) the fire officer of any fire district;

(e) the fire officer of any special service district organized for fire protection purposes; and

(f) authorized personnel of any of the persons specified in Subsections (4)(a) through (e).

(5) "State fire code" means the code adopted under Section 15A-1-403.

(6) "State fire marshal" means the fire marshal appointed director by the commissioner under Section 53-7-103.

Amended by Chapter 14, 2011 General Session

**53-7-103. State Fire Marshal Division -- Creation -- State fire marshal -- Appointment, qualifications, duties, and compensation.**

(1) There is created within the department the State Fire Marshal Division.

(2) (a) The director of the division is the state fire marshal, who shall be appointed by the commissioner upon the recommendation of the Utah Fire Prevention Board created in Section 53-7-203 and with the approval of the governor.

(b) The state fire marshal is the executive and administrative head of the division, and shall be qualified by experience and education to:

(i) enforce the state fire code;

(ii) enforce rules made under this chapter; and

(iii) perform the duties prescribed by the commissioner.

(3) The state fire marshal acts under the supervision and control of the commissioner and may be removed from the position at the will of the commissioner.

(4) The state fire marshal shall:

(a) enforce the state fire code and rules made under this chapter in accordance with Section 53-7-104;

(b) complete the duties assigned by the commissioner;

(c) examine plans and specifications for school buildings, as required by Section 53A-20-104;

(d) approve criteria established by the state superintendent for building inspectors;

(e) promote and support injury prevention public education programs; and

(f) perform all other duties provided in this chapter.

(5) The state fire marshal shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

Amended by Chapter 340, 2011 General Session

**53-7-104. Enforcement of state fire code and rules -- Division of authority and responsibility.**

(1) The authority and responsibility for enforcing the state fire code and rules made under this chapter is divided as provided in this section.

(2) The fire officers of any city or county shall enforce the state fire code and rules of the state fire marshal in their respective areas.

(3) The state fire marshal may enforce the state fire code and rules in:

(a) areas outside of corporate cities, fire protection districts, and other local districts or special service districts organized for fire protection purposes;

(b) state-owned property, school district owned property, and privately owned property used for schools located within corporate cities and county fire protection districts, asylums, mental hospitals, hospitals, sanitariums, homes for the aged, residential health-care facilities, children's homes or institutions, or similar institutional type occupancy of any capacity; and

(c) corporate cities, counties, fire protection districts, and special service districts organized for fire protection purposes upon receiving a request from the chief fire official or the local governing body.

Amended by Chapter 310, 2010 General Session

**53-7-105. State fire marshal, deputies, and investigators -- Status of law enforcement officers -- Inclusion in Public Safety Retirement -- Training.**

(1) The state fire marshal, his deputies, and investigators, for the purpose of enforcing and investigating violations of fire related statutes and ordinances, have the status of law enforcement officers.

(2) Inclusion under Title 49, Chapter 14, Public Safety Contributory Retirement Act, Title 49, Chapter 15, Public Safety Noncontributory Retirement Act, or Title 49, Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act, is not authorized by Subsection (1) except as provided in those chapters.

(3) The commissioner, with the concurrence of the Peace Officer Standards and Training Advisory Board may require peace officer standards and training for the state fire marshal, his deputies, and investigators.

Amended by Chapter 266, 2010 General Session

**53-7-107. Electronic writing.**

(1) Any writing required or permitted by this chapter may be filed or prepared in an electronic medium and by electronic transmission subject to the ability of the recipient to accept and process the electronic writing.

(2) Any writing required by this chapter to be signed that is in an electronic medium shall be signed by electronic signature in accordance with Title 46, Chapter 4, Uniform Electronic Transactions Act.

Amended by Chapter 21, 2006 General Session

**53-7-109. Firefighter Support Restricted Account.**

(1) There is created in the General Fund the Firefighter Support Restricted Account.

(2) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422; and

(b) donations or grants from public or private entities.

(3) The Legislature shall appropriate funds in the account to the division.

(4) The division shall distribute funds in the account to one or more charitable organizations that:

(a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(b) provide firefighter education and training programs;

(c) initiate and maintain active participation in all aspects of fire service;

(d) maintain a fire history museum; and

(e) represent over 2,000 active, inactive, retired, volunteer, or career firefighters throughout the state.

(5) (a) An organization described in Subsection (4) may apply to the division to receive a distribution in accordance with Subsection (4).

(b) An organization that receives a distribution from the division in accordance with Subsection (4) shall expend the distribution only to:

(i) pay for firefighter education or training programs;

(ii) pay for firefighter scholarship programs;

(iii) pay the costs of maintaining a fire history museum;

(iv) pay the costs of representing firefighter interests on a national and local level; and

(v) pay for assistance with purchasing equipment or apparatuses used in firefighting.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules providing procedures for an organization to apply to the division to receive a distribution under Subsection (4).

Enacted by Chapter 348, 2009 General Session

**53-7-201. Short title.**

This part is known as the "Fire Prevention and Fireworks Act."

Enacted by Chapter 234, 1993 General Session

**53-7-202. Definitions.**

As used in this part:

(1) "Agricultural and wildlife fireworks" means a class C dangerous explosive that:

(a) uses sound or light when deployed; and

(b) is designated to prevent crop damage or unwanted animals from entering a specified area.

(2) "Class A explosive" means a division 1.1 or 1.2 explosive as defined by the United States Department of Transportation in Part 173, Title 49, Code of Federal Regulations.

(3) "Class B explosive" means a division 1.2 or 1.3G explosive as defined by the United States Department of Transportation in Part 173, Title 49, Code of Federal Regulations.

(4) "Class C explosive" means a division 1.4G explosive as defined by the United States Department of Transportation in Part 173, Title 49, Code of Federal Regulations.

(5) "Class C common state approved explosive" means a firework that:

(a) is purchased at retail for use by a consumer; and

(b) is not a Class C dangerous explosive.

(6) (a) "Class C dangerous explosive" means a class C explosive that is:

(i) a firecracker, cannon cracker, ground salute, M-80, cherry bomb, or other similar explosive;

(ii) (A) a skyrocket;

(B) a missile type rocket;

(C) a single shot, or reloadable aerial shell; or

(D) a rocket similar to one described in Subsections (6)(a)(ii)(A) through (C), including an aerial salute, a flash shell, a comet, a mine, or a cake containing more than 500 grams of pyrotechnic composition; or

(iii) (A) a bottle rocket;

(B) a roman candle;

(C) a rocket mounted on a wire or stick; or

(D) a device containing a rocket described in this Subsection (6)(a)(iii).

(b) A "class C dangerous explosive" does not mean exempt explosives.

(7) "Commercial cooking appliance fire suppression system":

(a) means an automatic or manual fire protection system designed for commercial cooking appliances, exhaust hoods, and ducts; and

(b) includes a commercial kitchen exhaust system attached to a fire suppression system that is designed to remove smoke, soot, toxic gases, and grease-laden vapor resulting from cooking operations.

(8) (a) "Display fireworks" means large firework devices that consist of explosive materials that are intended for use in outdoor aerial fireworks displays to produce visible or audible effects by combustion, deflagration, or detonation.

(b) "Display fireworks" includes aerial shells, salutes, roman candles, flash shells, comets, mines, and other similar explosives.

(9) (a) "Display operator" means a person licensed under Section 53-7-223 and who is responsible for site selection, setting up, permits, overseeing assistants and support personnel, and discharging display fireworks outdoors in situations where the audience maintains a specific distance separating it from the display fireworks being discharged.

(b) "Display operator" does not mean a fire department.

(10) "Exempt explosive" means a model rocket, toy pistol cap, emergency signal flare, snake or glow worm, party popper, trick noisemaker, match, and wire sparkler under 12 inches in length.

(11) "Fire extinguisher" means a portable or stationary device that discharges water, foam, gas, or other material to extinguish a fire.

(12) "Fire suppression system" means an automatic fire protection system that automatically detects fire and discharges a fire extinguishing agent onto or in the area of the fire.

(13) (a) "Fireworks" means:

(i) class C explosives;

(ii) class C dangerous explosives; and

(iii) class C common state approved explosives.

(b) "Fireworks" does not mean:

(i) exempt explosives;

(ii) class A explosives; or

(iii) class B explosives.

(14) "Flame effects" means the combustion of flammable solids, liquids, or gases to produce thermal, physical, visual, or audible phenomena before an audience.

(15) (a) "Flame effects operator" means a person licensed under Section 53-7-223 who, regarding flame effects, is responsible for:

(i) storage, setup, operations, teardown, devices, equipment, overseeing assistants and support personnel, and preventing accidental discharge; and

(ii) completion of the sequence of control system functions that release the fuel for ignition to cause combustion and create the flame effects.

(b) (i) "Flame effects operator" does not include a person who participates in a meeting, as limited under Subsection (15)(b)(ii), with other persons solely to receive training, to practice, or provide instruction regarding flame effects performance.

(ii) A meeting under Subsection (15)(b)(i) may include a nonpaying and unsolicited audience of not more than 25 persons.

(16) "Importer" means a person who brings class B or class C explosives into Utah for the general purpose of:

(a) resale or use within the state; or

(b) exportation to other states.

(17) (a) "Pyrotechnic" means any composition or device manufactured or used to produce a visible or audible effect by combustion, deflagration, or detonation.

(b) "Pyrotechnic" does not mean exempt explosives.

(18) "Retail seller" means a person who sells class C common state approved explosives to the public during the period authorized under Section 53-7-225.

(19) "Service" means the inspection, maintenance, repair, modification, testing, or cleaning of an automatic fire suppression system.

(20) "Special effects" means a visual or audible effect caused by chemical mixtures that produce a controlled, self-sustaining, and self-controlled exothermic chemical reaction that results in heat, gas, sound, or light and may also create an illusion.

(21) "Special effects operator" means a person licensed under Section 53-7-223 who is responsible for setting up, permits, overseeing assistants and support personnel, analyzing potential hazards, setting clearances, and discharging pyrotechnic devices, either indoor or outdoor, where the audience is allowed to be in closer proximity to the pyrotechnic devices than the audience separation distance generally required for

display fireworks.

(22) "Trick noisemaker" includes a:

(a) tube or sphere containing pyrotechnic composition that produces a white or colored smoke as its primary effect when ignited; and

(b) device that produces a small report intended to surprise the user, including a:

(i) "booby trap," which is a small tube with a string protruding from both ends that ignites the friction sensitive composition in the tube when the string is pulled;

(ii) "snapper," which is a small paper-wrapped device containing a minute quantity of explosive composition coated on bits of sand that explodes producing a small report;

(iii) "trick match," which is a kitchen or book match coated with a small quantity of explosive or pyrotechnic composition that produces a small shower of sparks when ignited;

(iv) "cigarette load," which is a small wooden peg coated with a small quantity of explosive composition that produces a small report when ignited; and

(v) "auto burglar alarm," which is a tube that:

(A) contains pyrotechnic composition that produces a loud whistle and smoke when ignited;

(B) may contain a small quantity of explosive to produce a small explosive noise; and

(C) is ignited by a squib.

(23) "Unclassified fireworks" means:

(a) a pyrotechnic device that is used, given away, or offered for sale, that has not been tested, approved, and classified by the United States Department of Transportation;

(b) an approved device that has been altered or redesigned since obtaining approval by the United States Department of Transportation; and

(c) a pyrotechnic device that is being tested by a manufacturer, importer, or wholesaler before receiving approval by the United States Department of Transportation.

(24) "Wholesaler" means:

(a) a person who sells class C common state approved explosives to a retailer; or

(b) a person who sells class B explosives or class C dangerous explosives for display use.

Amended by Chapter 247, 2013 General Session

**53-7-203. Utah Fire Prevention Board -- Creation -- Members -- Terms -- Selection of chair and officers -- Quorum -- Meetings -- Compensation -- Division's duty to implement board rules.**

(1) There is created within the division the Utah Fire Prevention Board.

(2) The board shall be nonpartisan and be composed of 10 members appointed by the governor as follows:

(a) a city or county official;

(b) a licensed architect;
(c) a licensed engineer;
(d) a member of the Utah State Firemen's Association;
(e) the state forester;
(f) the commissioner of the Labor Commission or the commissioner's designee;
(g) a member of the Utah State Fire Chiefs Association;
(h) a member of the Utah Fire Marshal's Association;
(i) a building inspector; and
(j) a citizen appointed at large.

(3) (a) Except as required by Subsection (3)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) A member whose term has expired may continue to serve until a replacement is appointed pursuant to Subsection (3).

(6) The board shall select from its members a chair and other officers as the board finds necessary.

(7) A majority of the members of the board is a quorum.

(8) The board shall hold regular semiannual meetings for the transaction of its business at a time and place to be fixed by the board and shall hold other meetings as necessary for proper transaction of business.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
(a) Section 63A-3-106;
(b) Section 63A-3-107; and
(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(10) The division shall implement the rules of the board and perform all other duties delegated by the board.

Amended by Chapter 286, 2010 General Session

**53-7-204. Duties of Utah Fire Prevention Board -- Unified Code Analysis Council -- Local administrative duties.**

(1) The board shall:
(a) administer the state fire code as the standard in the state;
(b) subject to the state fire code, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
(i) establishing standards for the prevention of fire and for the protection of life and property against fire and panic in any:
(A) publicly owned building, including all public and private schools, colleges,

and university buildings;

(B) building or structure used or intended for use as an asylum, a mental hospital, a hospital, a sanitarium, a home for the elderly, an assisted living facility, a children's home or day care center, or any building or structure used for a similar purpose; or

(C) place of assemblage where 50 or more persons may gather together in a building, structure, tent, or room for the purpose of amusement, entertainment, instruction, or education;

(ii) establishing safety and other requirements for placement and discharge of display fireworks on the basis of:

(A) the state fire code; and

(B) relevant publications of the National Fire Protection Association;

(iii) establishing safety standards for retail storage, handling, and sale of class C common state approved explosives;

(iv) defining methods to establish proof of competence to place and discharge display fireworks, special effects fireworks, and flame effects;

(v) deputizing qualified persons to act as deputy fire marshals, and to secure special services in emergencies;

(vi) implementing Section 15A-1-403;

(vii) setting guidelines for use of funding;

(viii) establishing criteria for training and safety equipment grants for fire departments enrolled in firefighter certification; and

(ix) establishing ongoing training standards for hazardous materials emergency response agencies;

(c) recommend to the commissioner a state fire marshal;

(d) develop policies under which the state fire marshal and the state fire marshal’s authorized representatives will perform;

(e) provide for the employment of field assistants and other salaried personnel as required;

(f) prescribe the duties of the state fire marshal and the state fire marshal’s authorized representatives;

(g) establish a statewide fire prevention, fire education, and fire service training program in cooperation with the Board of Regents;

(h) establish a statewide fire statistics program for the purpose of gathering fire data from all political subdivisions of the state;

(i) establish a fire academy in accordance with Section 53-7-204.2;

(j) coordinate the efforts of all people engaged in fire suppression in the state;

(k) work aggressively with the local political subdivisions to reduce fire losses;

(l) regulate the sale and servicing of portable fire extinguishers and automatic fire suppression systems in the interest of safeguarding lives and property;

(m) establish a certification program for persons who inspect and test automatic fire sprinkler systems;

(n) establish a certification program for persons who inspect and test fire alarm systems;

(o) establish a certification for persons who provide response services regarding hazardous materials emergencies;

(p) in accordance with Section 15A-1-403, report to the Business and Labor Interim Committee; and

(q) jointly create the Unified Code Analysis Council with the Uniform Building Code Commission in accordance with Section 15A-1-203.

(2) The board may incorporate in its rules by reference, in whole or in part:

(a) the state fire code; or

(b) subject to the state fire code, a nationally recognized and readily available standard pertaining to the protection of life and property from fire, explosion, or panic.

(3) The following functions shall be administered locally by a city, county, or fire protection district:

(a) issuing permits, including open burning permits pursuant to Sections 11-7-1 and 19-2-114;

(b) creating a local board of appeals in accordance with the state fire code; and

(c) subject to the state fire code and the other provisions of this chapter, establishing, modifying, or deleting fire flow and water supply requirements.

Amended by Chapter 14, 2011 General Session

**53-7-204.2. Fire Academy -- Establishment -- Fire Academy Support Account -- Funding.**

(1) In this section:

(a) "Account" means the Fire Academy Support Account created in Subsection (4).

(b) "Property insurance premium" means premium paid as consideration for property insurance as defined in Section 31A-1-301.

(2) The board shall:

(a) establish a fire academy that:

(i) provides instruction and training for paid, volunteer, institutional, and industrial firefighters;

(ii) develops new methods of firefighting and fire prevention;

(iii) provides training for fire and arson detection and investigation;

(iv) provides public education programs to promote fire safety;

(v) provides for certification of firefighters, pump operators, instructors, and officers; and

(vi) provides facilities for teaching fire-fighting skills;

(b) establish a cost recovery fee in accordance with Section 63J-1-504 for training commercially employed firefighters; and

(c) request funding for the academy.

(3) The board may:

(a) accept gifts, donations, and grants of property and services on behalf of the fire academy; and

(b) enter into contractual agreements necessary to facilitate establishment of the school.

(4) (a) To provide a funding source for the academy and for the general operation of the State Fire Marshal Division, there is created in the General Fund a restricted account known as the Fire Academy Support Account.

(b) The following revenue shall be deposited in the account to implement this section:

(i) the percentage specified in Subsection (5) of the annual tax for each year that is levied, assessed, and collected under Title 59, Chapter 9, Taxation of Admitted Insurers, upon property insurance premiums and as applied to fire and allied lines insurance collected by insurance companies within the state;

(ii) the percentage specified in Subsection (6) of all money assessed and collected upon life insurance premiums within the state;

(iii) the cost recovery fees established by the board;

(iv) gifts, donations, and grants of property on behalf of the fire academy;

(v) appropriations made by the Legislature; and

(vi) money collected from civil penalties in accordance with Section 53-7-504.

(5) The percentage of the tax specified in Subsection (4)(b)(i) to be deposited in the account each fiscal year is 25%.

(6) The percentage of the money specified in Subsection (4)(b)(ii) to be deposited in the account each fiscal year is 5%.

Amended by Chapter 303, 2011 General Session

**53-7-206. Equipment for new fire protection systems -- Standard equipment.**

All equipment for fire protective purposes, purchased in connection with the installation of completely new fire protection systems by any authorities having charge of public property, shall be equipped with the standard hydrant stem and cap nuts and standard threads for fire hose and fire hydrant couplings and fittings designated as the national standard, as adopted by the board, which standard is designated as the standard for the equipment in the state.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-207. Selling or offering for sale nonstandard equipment unlawful -- Exception.**

(1) A person may not sell or offer for sale any fire hose, fire hydrant, fire engine, or other equipment with threaded parts unless the equipment is fitted and equipped with the threads designated as national standard and adopted by the board and designated by law as the standard of the equipment in the state.

(2) Subsection (1) does not apply to:

(a) equipment sold or offered for sale to a local governing body for the purposes of maintaining, repairing, replacing, or extending existing fire protection equipment as provided in Section 11-4-2; and

(b) adapters and caps for fire protective purposes.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-208. Penalty and punishment.**

Any person who violates Sections 53-7-206 and 53-7-207, requiring standard

equipment, is guilty of a class B misdemeanor.

Amended by Chapter 274, 2013 General Session

**53-7-209. Inspection of buildings by officials -- Review of residential inspections.**

(1) As used in this section, "International Fire Code" means the edition of the International Fire Code adopted by the Legislature with the amendments and additions in the State Fire Code.

(2) A fire chief or officer may enter a building or premises not used as a private dwelling at any reasonable hour to inspect the building or premises and enforce the rules made under this part and the state fire code.

(3) The owner, lessee, manager, or operator of a building or premises not used as a private dwelling shall permit inspections under this section.

(4) (a) Subject to Subsection (4)(b), a county, city, or town shall, by ordinance, provide for review of an inspection conducted by the county's, city's, or town's fire chief or officer for a single-family residence within 30 days of the notice of the fire code compliance inspection.

(b) Upon request by a person who owns or is building a single-family residence, a chief executive officer of the county, city, or town in which is located the single-family residence, or the chief executive officer's designee, shall, with reasonable diligence, review an inspection described in Subsection (4)(a) to determine whether the inspection constitutes a fair administration of the State Fire Code.

(c) A review described in this section:

(i) is separate and unrelated to an appeal under the International Fire Code;

(ii) may not be used to review a matter that may be brought by appeal under the International Fire Code;

(iii) may not result in the waiver or modification of a State Fire Code requirement or standard; and

(iv) does not prohibit a person from bringing an appeal under the International Fire Code.

(d) A person who seeks a review described in this Subsection (4) may not be prohibited by preclusion, estoppel, or otherwise from raising an issue or bringing a claim in an appeal under the International Fire Code on the grounds that the person raised the issue or brought the claim in the review described in this section.

Amended by Chapter 260, 2011 General Session

**53-7-210. Fire investigations by local officers -- Notification to division.**

(1) The chief fire officer of any city, town, or county fire department, or of any fire district or special service district organized for fire protection purposes, or his authorized representative shall investigate the cause, origin, and circumstances of each fire occurring in his jurisdiction when property has been destroyed or damaged.

(2) The fire officer shall:

(a) begin the investigation immediately after the occurrence of the fire; and

(b) attempt to determine, among other things, whether the fire was the result of

carelessness or of design.

(3) If the fire officer making this investigation determines that the fire appears to be suspicious, or of unknown origin, the officer may notify the division to request assistance.

Amended by Chapter 25, 2001 General Session

**53-7-211. Fire investigations by fire marshal.**

(1) If the division is of the opinion that further investigation of a fire is necessary, the state fire marshal, his deputy, or representative may:

(a) join the investigation in cooperation with the fire officers who have been conducting it;

(b) upon the request of the chief fire official of the political subdivision, assume control of the investigation and direct it; or

(c) conduct an independent investigation if necessary.

(2) A fire officer who has conducted or is conducting the investigation shall cooperate in every possible way with the state fire marshal, his deputy, and representative to further the purpose of the investigation.

(3) The county attorney or district attorney of the county in which the fire occurred shall, upon the request of the state fire marshal, his deputy, or representative, assist in the investigation.

Renumbered and Amended by Chapter 38, 1993 General Session
Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-212. Powers of fire marshal in respect to investigation.**

In investigating any fire the state fire marshal and his deputy may:

(1) subpoena witnesses;

(2) compel their attendance and testimony; and

(3) require the production of books, papers, documents, records, and other tangible items that constitute or may contain evidence relevant to the investigation in the judgment of the state fire marshal or his deputy.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-213. Criminal charges resulting from investigation -- Procedure.**

If the state fire marshal, his deputy, or representative, or any other officer participating in the investigation of any fire believes that there is evidence sufficient to charge a person with arson, burning with intent to defraud or prejudice the insurer, or a similar crime, he shall furnish the county attorney or district attorney of the county in which the crime occurred with his evidence and request the county attorney or district attorney to commence the proper procedures to charge the person with the appropriate crime.

Renumbered and Amended by Chapter 38, 1993 General Session
Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-214. Insurance company reports of fires.**

(1) The state fire marshal, his deputy, and investigator may, in writing, require any insurance company transacting business in this state to release to the state fire marshal all relevant information or evidence found important by the state fire marshal, his deputy, and investigator that the company may have in its possession, relating to any fire loss in this state in which the company has an insuring interest. Relevant information includes:

(a) insurance policy information related to a fire loss under investigation and any application for the policy;

(b) available policy premium payment records;

(c) history of previous claims made by the insured; and

(d) material relating to the investigation of the loss, including statements of any person, proof of loss, and any other evidence related to the investigation.

(2) (a) Every insurance company transacting business in the state must file with the division a report of any fire of suspicious origin.

(b) The report shall show:

(i) the name of the insured;

(ii) the location of the property burned;

(iii) the probable cause of the fire;

(iv) the occupancy of the property burned;

(v) the construction of the building or structure burned;

(vi) the market value of the property involved;

(vii) the actual loss;

(viii) the insurance carried;

(ix) the insurance paid;

(x) the apportionment of loss where more than one company was on the risk; and

(xi) if a motor vehicle or building is involved in any fire loss, a description of the motor vehicle or building.

(c) In case of a fire of suspicious or incendiary origin, a preliminary report shall be made immediately through some officer or representative of the insurance company, showing:

(i) the name of the insured;

(ii) the date of the fire;

(iii) the location;

(iv) occupancy; and

(v) other facts and circumstances tending to establish the cause or origin of the fire.

(3) All persons making an adjustment occasioned by a loss due to a fire of suspicious or incendiary origin in this state shall, upon written request, send to the division a copy of the final adjustment immediately after the adjustment is made, signed by the person making the adjustment.

(4) Any insurance company or person acting in its behalf or any person making adjustments occasioned by a loss due to fire who releases information, whether oral or written, pursuant to Subsection (1), (2), or (3) is immune from any liability for the release of this information arising out of a civil action or penalty resulting from a criminal

prosecution.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-215. Portable fire extinguishers -- Persons not subject to part.**

(1) The filling or charging of portable fire extinguishers prior to initial sale by the manufacturer is not subject to this part.

(2) Any firm that maintains its own fully equipped and specially staffed fire prevention, fire protection, and fire extinguisher servicing facilities is not subject to the licensing provisions of this part if it services only its own portable fire extinguishers.

(3) Individuals shall maintain a current certificate of registration.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-216. Portable fire extinguishers and fire suppression systems -- Certification and licensure required to service.**

(1) Each firm engaged in the business of servicing portable fire extinguishers or automatic fire suppression systems that automatically detect fire and discharge an approved fire extinguishing agent onto or in the area of the fire shall be licensed by the state fire marshal.

(2) Each person who services portable fire extinguishers or fire suppression systems that discharge an approved fire extinguishing agent onto or in the area of the fire shall be certified by the state fire marshal.

(3) The board shall by rule prescribe an application form and standards for licensure or certification qualification and for renewal and revocation.

(4) Applicants for licensure or certification shall:

(a) submit a written application on the form prescribed by the board;

(b) provide evidence of competency as required by the board; and

(c) submit the fee established under Subsection (5).

(5) The board may establish a fee under Section 63J-1-504 to be paid upon application for licensure or certification.

(6) This section does not apply to standpipe systems, deluge systems, or automatic fire sprinkler systems.

Amended by Chapter 247, 2013 General Session

**53-7-217. Portable fire extinguishers -- Permit required to perform hydrostatic testing.**

Each firm performing hydrostatic testing of portable fire extinguishers shall:

(1) perform the tests in accordance with the specifications of the United States Department of Transportation for compressed gas cylinders; and

(2) obtain a permit from the division by applying in writing on forms provided by the division.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-218. Portable fire extinguishers -- Sale or lease without approval prohibited.**

A portable fire extinguisher may not be sold or leased in the state unless it is approved, labeled, or listed by a nationally recognized testing laboratory approved by the division as qualified to test portable fire extinguishers.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-219. Portable fire extinguishers -- Hearings authorized.**

The state fire marshal may conduct hearings or proceedings concerning the renewal, revocation, or refusal to issue permits.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-220. Short title.**

Sections 53-7-220 through 53-7-225 are known as the "Utah Fireworks Act."

Enacted by Chapter 234, 1993 General Session

**53-7-221. Exceptions from Utah Fireworks Act.**

(1) Sections 53-7-220 through 53-7-225 do not apply to class A, class B, and class C explosives that are not for use in Utah, but are manufactured, stored, warehoused, or in transit for destinations outside of Utah.

(2) Sections 53-7-220 through 53-7-225 do not supersede Section 23-13-7, regarding use of fireworks and explosives by the Division of Wildlife Resources and federal game agents.

Enacted by Chapter 234, 1993 General Session

**53-7-222. Restrictions on the sale or use of fireworks.**

(1) (a) Except as provided in Subsection (1)(b), class C dangerous explosives may not be possessed, discharged, sold, or offered for retail sale.

(b) (i) The following persons may purchase, possess, or discharge class C dangerous explosives:

(A) display operators and special effects operators who receive a license from the division in accordance with Section 53-7-223 and approval from their local licensing authority in accordance with Section 11-3-3.5; and

(B) operators approved by the Division of Wildlife Resources or Department of Agriculture and Food to discharge agricultural and wildlife fireworks.

(ii) Importers and wholesalers licensed under Section 53-7-224 may possess, sell, and offer to sell class C dangerous explosives.

(2) Unclassified fireworks may not be sold, or offered for sale.

Amended by Chapter 13, 2011 General Session
Amended by Chapter 13, 2011 General Session, (Coordination Clause)

**53-7-223. State license for display operators, special effects operators, and flame effects operators -- Permit -- Fee -- Division duties -- Revocation.**

(1) (a) A person may not purchase or possess display fireworks, special effects fireworks, or flame effects, or discharge any of them in public unless the person has obtained the appropriate license from the division, except under Subsection (1)(b).

(b) (i) Subsection (1)(a) does not apply to any person who participates in a meeting, as limited under Subsection (1)(b)(ii), with other persons solely to receive training, to practice, or provide instruction regarding flame effects performance.

(ii) A meeting under Subsection (1)(b)(i) may include a nonpaying and unsolicited audience of not more than 25 persons.

(2) The division shall:

(a) issue an annual license to any display operator, special effects operator, or flame effects operator who:

(i) applies for the permit;

(ii) pays a $40 fee;

(iii) demonstrates proof of competence; and

(iv) certifies that the operator will comply with board rules governing placement and discharge of fireworks or flame effects;

(b) provide the licensee with a copy of the rules governing placement and discharge of fireworks or flame effects made under Section 53-7-204; and

(c) together with county and municipal officers enforce Sections 53-7-220 through 53-7-225.

(3) The division may:

(a) revoke a license issued under this section for cause;

(b) seize display and special effects fireworks, fireworks, and unclassified fireworks that are offered for sale, sold, or in the possession of an individual in violation of Sections 53-7-220 through 53-7-225;

(c) prevent or stop the use of flame effects that is unlawful or that is endangering persons or property; and

(d) create application and certification forms.

Amended by Chapter 61, 2010 General Session

**53-7-224. Licensing importers and wholesalers -- Fee.**

The division shall:

(1) annually license each importer and wholesaler of pyrotechnic devices; and

(2) charge an annual license fee of $250.

Enacted by Chapter 234, 1993 General Session

**53-7-225. Times for sale and discharge of fireworks.**

(1) This section supercedes any other code provision regarding the sale or discharge of fireworks.

(2) A person may sell class C common state approved explosives in the state as follows:

(a) beginning on June 23 and ending on July 27;

(b) beginning on December 29 and ending on December 31; and
(c) two days before and on the Chinese New Year's eve.
(3) Except as provided in Subsection (5), a county or municipality may not prohibit any person from discharging class C common state approved explosives in the state as follows:
(a) between the hours of 11 a.m. and 11 p.m., except that on July 4 and July 24, the hours are 11 a.m. to midnight:
(i) beginning on July 1 and ending on July 7; and
(ii) beginning on July 21 and ending on July 27;
(b) (i) beginning at 11 a.m. on December 31 and ending at 1 a.m. on the following day; or
(ii) if New Year's eve is on a Sunday and the local governmental jurisdiction determines to celebrate New Year's eve on the prior Saturday, then it is lawful to discharge Class C common state approved explosives on that prior Saturday; and
(c) beginning at 11 a.m. on the Chinese New Year's eve and ending at 1 a.m. on the following day.
(4) A person who violates the time restrictions stated in Subsection (3)(a), (b), or (c) is guilty of an infraction.
(5) A county or municipality may prohibit any person from discharging class C common state approved explosives:
(a) as provided in Subsection 15A-5-202.5(1)(c); or
(b) in accordance with a municipal ordinance prohibiting the negligent discharge of class C common state approved explosives.

Amended by Chapter 357, 2013 General Session

**53-7-225.5. Inspection and testing of automatic fire sprinkler systems -- Certification required.**
(1) Each person engaged in the inspection and testing of automatic fire sprinkler systems shall be certified by the state fire marshal.
(2) The board shall by rule prescribe an application form and standards for certification qualification and for renewal and revocation.
(3) Applicants for certification as an automatic fire sprinkler system inspector and tester shall:
(a) submit a written application on the form prescribed by the board;
(b) provide evidence of competency as required by the board; and
(c) submit the fee established under Subsection (4).
(4) The board may establish an application fee under Section 63J-1-504.

Amended by Chapter 183, 2009 General Session

**53-7-225.6. Inspection and testing of fire alarm systems -- Certification and exceptions.**
(1) (a) Each person, other than fire and building inspectors and electricians licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, engaged in the inspection and testing of fire alarm systems shall be certified by the state fire

marshal.

(b) The board shall by administrative rule prescribe:

(i) an application form; and

(ii) standards for certification qualification and for renewal and revocation.

(2) Applicants for certification as a fire alarm system inspector and tester shall:

(a) submit a written application on the form prescribed by the board;

(b) provide evidence of competency as required by the board; and

(c) submit the fee established under Subsection (3).

(3) The board may establish an application fee under Section 63J-1-504.

Amended by Chapter 183, 2009 General Session

**53-7-226. Violations -- Misdemeanor.**

A person is guilty of a class B misdemeanor if he:

(1) violates this part;

(2) violates any order made under this part;

(3) produces, reproduces, or uses the official seal of registration of the division in any manner or for any purpose inconsistent with the designated purpose of the seal;

(4) removes, uses, or damages service tags or other labels or markings in a manner inconsistent with the designated use of the service tag;

(5) engages in the sale, storage, or handling of class C fireworks without a permit where a local government requires a permit;

(6) sells at retail, transports, possesses, or discharges class C dangerous explosives as defined in Section 53-7-202;

(7) performs or intends to perform services or induces the public to enter into any obligation relating to the performance of those services that are untrue, misleading, or reasonably known to be untrue or misleading; or

(8) builds in violation of the division's plan review or written instructions conducted on building specifications, building plans, or amendments of those specifications or plans as required under this part.

Amended by Chapter 322, 2007 General Session

**53-7-301. Short title.**

This part is known as the "Liquefied Petroleum Gas Act."

Enacted by Chapter 234, 1993 General Session

**53-7-302. Definitions.**

As used in this part:

(1) "Board" means the Liquefied Petroleum Gas Board created in Section 53-7-304.

(2) "Container" means any vessel, including cylinders, tanks, portable tanks, and cargo tanks used for transporting or storing liquefied petroleum gases, except containers subject to regulation and inspection by the Department of Transportation and under federal laws or regulations.

(3) "Distributor" means any person engaged in the distribution of liquefied petroleum gas, either wholesale or retail, including a commercial carrier, as identified by the Department of Transportation or the Interstate Commerce Commission, who transports or hauls liquefied petroleum gas that is to be distributed or sold within this state.

(4) "Enforcing authority" means the division, the municipal or county fire department, another fire-prevention agency acting within its jurisdiction, or the building official of any city or county and his authorized representatives.

(5) "Final consumer" means an individual or business who is the ultimate user of LPG.

(6) "Gas appliance" means any device that uses liquefied petroleum gas to produce light, heat, power, steam, hot water, refrigeration, or air conditioning.

(7) "Installer" means any person who has satisfactorily passed an examination under the supervision of the board, testing his knowledge and ability to install or properly repair domestic systems, industrial systems, liquefied petroleum gas carburetion systems, bulk plant systems, standby plant systems, or other similar systems, and who holds an installer's certificate under this part.

(8) "Licensee" means a person licensed by the board to engage in the liquefied petroleum gas business.

(9) "Liquefied petroleum gas" means any material having a vapor pressure not exceeding that allowed for commercial propane and composed predominantly of the following hydrocarbons, either by themselves or as mixtures: propane, propylene, butane, normal butane, or isobutane, and butylene, including isomers.

(10) "Liquefied petroleum gas carburetion system" means any carburetion system using liquefied petroleum gas as a fuel in a motor vehicle.

(11) "Liquefied petroleum gas fueling system" means an assembly consisting of compressors, containers, piping, and other delivery devices for the purpose of dispensing liquefied petroleum gas for use as a fuel in a motor vehicle.

(12) "LPG" means liquefied petroleum gas.

(13) "Person" means any individual, firm, partnership, joint venture, association, corporation, estate, trust, or any other group or combination acting as a unit, and includes:

(a) a husband, wife, or both where joint benefits are derived from the operation of a business or activity subject to this part; and

(b) any state, county, municipality, or other agency engaged in a business or activity subject to this part.

(14) "Red tag" means a card or device, red in color, containing printed notice of the condemnation of a liquefied petroleum gas system as a result of a violation of this part, or any rules or orders made by the board; the tag, when attached to the system, is official notice of condemnation and of the prohibition of further use, so long as the red tag remains lawfully affixed.

(15) "System" means an assembly consisting of one or more containers with a means for conveying LPG from the container or containers to dispensing or consuming devices, either continuously or intermittently, and that incorporates components intended to achieve control of quantity, flow, and pressure or state, either liquid or vapor.

Amended by Chapter 373, 2012 General Session

**53-7-303. Exclusions from part.**

This part does not apply to any of the following:

(1) the production, refining, or manufacture of LPG;

(2) the storage, sale, or transportation of LPG by pipeline or railroad tank car by a pipeline company, producer, refiner, or manufacturer;

(3) equipment used by a pipeline company, producer, refiner, or manufacturer in a producing, refining, or manufacturing process or in the storage, sale, or transportation by pipeline or railroad tank car;

(4) any deliveries of LPG to another person at the place of production, refining, or manufacturing;

(5) underground storage facilities other than LPG containers designed for underground use;

(6) refineries, pipeline terminals, or natural gas processing plants.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-304. Liquefied Petroleum Gas Board -- Creation -- Composition -- Appointment -- Terms of officers -- Meetings -- Compensation.**

(1) (a) There is created within the division the Liquefied Petroleum Gas Board.

(b) The board is composed of seven members:

(i) two Utah fire chiefs or marshals;

(ii) two members of the general public; and

(iii) three members who are representatives of the LPG industry.

(2) The fire chiefs or marshals and the members of the general public shall be appointed by the governor, on a nonpartisan basis.

(3) Members of the board who are representatives of the LPG industry shall have been legal residents of the state for at least one year immediately preceding the date of appointment and have been actively engaged in the LPG industry for a period of at least five years.

(4) The LPG industry representatives shall be appointed by the governor from a list of at least five but no more than the 12 nominees receiving the largest number of votes according to written ballots executed by representatives of the licensees under Subsection (7).

(5) (a) Except as required by Subsection (5)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Members serve from the date of appointment until a replacement is appointed.

(6) When a vacancy occurs in the membership for any reason, the replacement

shall be appointed for the unexpired term.

(7) (a) The balloting of licensees shall be conducted by the division.

(b) For the appointments, the division shall forward to each licensee by registered or certified United States mail an official ballot for each staffed plant or facility held under Section 53-7-309, with instructions for executing the ballot and returning it to the division.

(8) (a) The board shall elect its own chair and vice chair at its first regular meeting each calendar year.

(b) All meetings of the board shall be held on a prescribed date, at least quarterly, and at any time a majority of the board members sends a request to the board chair.

(c) A majority of the members of the board is a quorum for the transaction of business.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 286, 2010 General Session

**53-7-305. Board rulemaking -- Notice.**

(1) (a) The board shall make rules as reasonably necessary for the protection of the health, welfare, and safety of the public and persons using LPG.

(b) The rules shall be in substantial conformity with the generally accepted standards of safety concerning LPG, and shall include the following conditions:

(i) the rules relating to safety in the storage, distribution, dispensing, transporting, and use of LPG in this state and in the manufacture, fabrication, assembly, sale, installation, and use of LPG systems, containers, apparatus, or appliances shall be reasonable; and

(ii) the rules shall conform as nearly as possible to the standards of the National Fire Protection Association, relating to the design, construction, installation, and use of systems, containers, apparatus, appliances, and pertinent equipment for the storage, transportation, dispensation, and use of LPG.

(2) The board may make rules:

(a) setting minimum general standards covering the design, construction, location, installation, and operation of equipment for storing, handling, transporting by tank truck or tank trailer, or using LPG;

(b) specifying the odorization of the gases and the degree of odorization;

(c) governing LPG distributors and installers and the installation of LPG systems, carburetion systems, and fueling systems; and

(d) prescribing maximum container removal rates.

(3) (a) When a proposed rule is filed, the board shall give at least 10 days' notice to all license applicants and licensees under this chapter by sending a notice of the proposed new, revised, or amended rule together with a notice of hearing to the

licensee's current address on file with the board.

(b) Any person affected by rulemaking under this part may submit comment, in a format prescribed by the board, on the rule.

(c) A certificate citing the adoption and the effective date of a rule shall be signed by the members comprising a majority of the board.

(d) Within 10 days after the adoption of the rule, the board shall send to each license applicant or licensee, at his current address on file, a notice of the adoption of the rule, including its effective date.

(e) A facsimile of any member's signature may be used under this section if authorized by the member.

Amended by Chapter 25, 2001 General Session

**53-7-306. Duties and powers of the board -- Fee setting.**

(1) The board shall monitor rates charged in the industry for container removal.

(2) The board may:

(a) set civil penalties for violation of any rule or order made under this part;

(b) in conducting hearings on the issuance or revocation of any license:

(i) compel the attendance of witnesses by subpoena;

(ii) require the production of any records or documents determined by it to be pertinent to the subject matter of the hearing; and

(iii) apply to the district court of the county where the hearing is held for an order citing any applicant or witness for contempt, and for failure to attend, testify, or produce required documents;

(c) suspend or revoke licenses and refuse renewals of licenses if the applicant or licensee has been guilty of conduct harmful to either the safety or protection of the public;

(d) adopt bylaws for its procedures and methods of operation; and

(e) at the request of the enforcing authority, grant exceptions from its rules to accommodate local needs as it determines to be in the best interest of public safety or the persons using LPG materials or services.

(3) The board shall, in accordance with Section 53-7-314, establish fees to cover the cost of administering this section.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-307. Duties of the division.**

The division shall:

(1) prescribe the method and form to apply for, or renew, a LPG license or certificate, with the approval of the board;

(2) investigate the experience, reputation, and background of applicants and persons who hold a license or certificate and who are applying for renewal;

(3) recommend to the board issuing, renewing, suspending, revoking, and denying licenses or certificates;

(4) assist the board in conducting hearings in connection with the applications for, renewal of, suspension of, or revocation of, licenses or certificates;

(5) submit to the governor a biennial report before September 1 of each even-numbered year, covering the board's transactions during the biennium ending June 30 of that year, including a complete statement of the receipts and expenditures of the board during that period;

(6) keep accurate records and minutes of all meetings, which shall be open to public inspection at all reasonable times, and keep a public record of all applications for licenses and licenses issued by the board;

(7) conduct examinations of every license applicant to determine the responsibility, ability, knowledge, experience, or other qualifications of the applicant for a license;

(8) require competency testing for all employees and subcontractors of licensees engaged in transporting or dispensing LPG or installing, servicing, or repairing an LPG fueling or carburetion system under this part;

(9) prepare applications, collect fees, and issue licenses for any facility that handles LPG;

(10) provide for or direct the inspection of the site of any facility that stores, dispenses, services, or handles LPG;

(11) provide inspections to any facility where a qualified authority does not exist; and

(12) prepare and administer examinations, collect fees, and issue LPG certificates to personnel who handle or work with LPG.

Amended by Chapter 247, 2013 General Session

**53-7-308. Licenses and certificates.**

A person may not engage in any of the following activities related to LPG unless the person has obtained an authorizing license or certification from the board:

(1) container activities, including the manufacture, assembly, repair, sale, installation, or subframing of containers for use in this state, except that a license is not required for the sale of new containers of 96 pounds water capacity or less;

(2) systems activities, including:

(a) the installation, service, or repair of LPG systems for use in this state; and

(b) laying or connecting of pipes and fittings connecting with or to systems or servicing a system and appliances to be used with LPG as a fuel;

(3) appliance activities, including the service, installation, or repair of appliances used or to be used in this state in connection with systems using LPG as a fuel; or

(4) product activities, including the sale, transportation, dispensation, or storage of LPG in this state, except that a license or certification is not required for a person:

(a) who sells LPG but does not obtain possessory rights to the product sold; or

(b) when the product is stored, transferred, or used by the final consumer.

Amended by Chapter 373, 2012 General Session

**53-7-309. Classification of applicants and licensees.**

(1) To administer this part, the board shall classify all applicants and licensees as follows:

(a) Class 1: a licensed dealer who:

(i) is engaged in the business of installing gas appliances or systems for the use of LPG;

(ii) sells, fills, refills, delivers, or is permitted to deliver any LPG; or

(iii) is involved under both Subsections (1)(a)(i) and (ii).

(b) Class 2: a business engaged in the sale, transportation, and exchange of cylinders, or engaged in more than one of these, but not transporting or transferring gas in liquid.

(c) Class 3: a business not engaged in the sale of LPG, but engaged in the sale and installation of gas appliances or LPG systems.

(d) Class 4: those businesses not specifically within classification 1, 2, or 3 may at the discretion of the board be issued special licenses.

(2) (a) Any license granted under this section entitles the licensee to operate a staffed plant or facility consistent with the license at one location, which is stated in the license, under Section 53-7-310.

(b) For each additional staffed plant or facility owned or operated by the licensee, the licensee shall register the additional location with the board and pay an additional annual fee, to be set in accordance with Section 53-7-314.

Amended by Chapter 324, 2010 General Session

**53-7-310. License specifications and limits.**

(1) (a) A license issued under this part shall state the name of the person or persons to whom it is issued.

(b) The license shall specify the location, by street and number, of the premises for which it is issued and the particular classification of the license authorizing the type of staffed plant or facility to be conducted.

(c) The registration of additional staffed plants or facilities, under Subsection 53-7-309 (2), shall specify the location, by street and number, of the premises for which it is issued and the particular classification of the license authorizing the type of business to be conducted.

(2) (a) Any license issued under this part is not transferable by the licensee or licensees to any other person, firm, association, partnership, or corporation, and is valid only for the particular premises and particular persons described on the license.

(b) If there is any transfer or change in the ownership, the change shall be reported to the board within 30 days.

(c) A license or registration fee paid under this part may not be refunded when any license issued is no longer valid because of:

(i) a voluntary transfer of any nature;

(ii) revocation under this part;

(iii) death of the holder;

(iv) insolvency;

(v) assignment for the benefit of creditors; or

(vi) for any other reason determined by rule of the board.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-311. Certification of licensees for certain activities.**

(1) A person that transports or dispenses LPG or that installs, repairs, or services appliances, containers, equipment, systems, or piping for the use of LPG shall be certified by the division by passing an appropriate examination based on the safety requirements of the board.

(2) (a) A trainee employee is exempt from this examination for 45 working days, and until examined by a representative of the board. A trainee employee, during the 45-day period, shall be supervised by a qualified instructor.

(b) Any LPG licensee hiring a trainee shall, within 20 days of the commencement of employment, notify the board, so that an examination may be scheduled. If the trainee fails to pass the examination, the trainee may retake it after additional instruction. Prior to retaking the exam, the trainee shall again be supervised by a qualified instructor.

(3) (a) The board shall establish a reasonable fee in accordance with Section 53-7-314 to cover the costs of administering the examination.

(b) All examinations shall be administered by the division.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-312. Division approval of certain storage system plans -- Procedure.**

(1) (a) The complete plans and specifications for all systems involving the storage of more than 5,000 water gallons of LPG shall be submitted to the division by a person licensed under this part, and receive approval by the division before installation is started. The plans shall be drawn to scale and contain sufficient detail and clarity as necessary to indicate the nature and character of the proposed system and its compliance with this part.

(b) Two copies of the plans shall be submitted to the division and one copy shall be returned to the applicant with approval or disapproval indicated on it.

(2) (a) For dispensing systems for 5,000 water gallons or less of LPG, a detailed sketch or plan shall be submitted to the division by a person licensed under this part, and receive approval by the division before installation is started.

(b) Two copies of the plans shall be submitted to the division and one copy shall be returned to the applicant with approval or disapproval indicated on it.

Amended by Chapter 14, 1995 General Session

**53-7-313. Removal of LPG containers -- Reasonableness of rates.**

(1) Rates charged for removal of leased LPG containers shall be reasonable.

(2) The lessor of an LPG container shall credit the lessee's account the current retail price for the amount of LPG remaining in the leased container at the time the container is removed.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-314. Fees -- Setting -- Deposit -- Use.**

(1) The board shall establish fees authorized in this part in accordance with the

procedures specified in Section 63J-1-504, but the fees shall be deposited as provided in Subsection (2).

(2) Fees collected by the division under this part, shall be deposited with the state treasurer as a dedicated credit, to be used for the implementation of this part.

Amended by Chapter 391, 2010 General Session

**53-7-315. Enforcement of part and rules.**

(1) Except as provided in Subsection (6), this part, the rules made under it, and orders issued by the board are enforced by:

(a) the enforcing authority, unless otherwise provided by the board; and

(b) the board.

(2) (a) A person who knowingly violates or fails to comply with this part is guilty of a class B misdemeanor and is punishable by a fine of not less than $50 nor more than $500.

(b) A person previously convicted under Subsection (2)(a) who knowingly violates or fails to comply with this part is guilty of a class B misdemeanor and is punishable by a fine of not less than $200 nor more than $2,000.

(c) Each day the violation or failure to comply continues constitutes a separate offense.

(3) The enforcing authority may enter the premises of a licensee under this part, or any building or other premises open to the public, at any reasonable time, for the purpose of determining and verifying compliance with this part and the rules and orders of the board.

(4) An enforcing authority may declare any container, appliance, equipment, transport, or system that does not conform to the safety requirements of this part or the rules or orders of the board, or that is otherwise defective, as unsafe or dangerous for LPG service, and shall attach a red tag in a conspicuous location.

(5) (a) A person who knowingly sells, furnishes, delivers, or supplies LPG for storage in, or use or consumption by, or through, a container, appliance, transport, or system to which a red tag is attached is guilty of a class B misdemeanor punishable by a fine of not less than $100 and not more than $2,000.

(b) Liquefied petroleum gas shall be removed from a container to which a red tag is attached only as provided by rules made by the board.

(c) An unauthorized person who knowingly removes, destroys, or in any way obliterates a red tag attached to a container, appliance, transport, or system is guilty of a class B misdemeanor punishable by a fine of not less than $50 and not more than $2,000.

(d) The enforcing authority may establish and collect a fee for any services or inspections required by this part, the rules made under it, and orders issued by the board. The fee shall be reasonable and may not exceed the amount of the cost of service or inspection provided. Fees collected under this subsection may be retained by the enforcing authority, and shall be applied to the expenses of providing these services.

(6) (a) Except as provided in Subsection (6)(c), a person who fills a leased container in violation of the terms of a written lease is liable in an action by the

container lessor for the greater of:

(i) the actual damages to the container lessor, including incidental and consequential damages and attorneys' fees; or

(ii) $500 for each violation.

(b) (i) The burden of ascertaining the terms of a written lease for purposes of Subsection (a) is on the person filling the container.

(ii) A person has ascertained the terms of a written lease if he has:

(A) read the lease;

(B) received the assurance of the container owner that the lease does not prohibit the person from filling the container;

(C) obtained a signed, written statement from the lessee that the written lease does not prohibit the person from filling the container; or

(D) the leased container is clearly labelled as a container subject to lease terms prohibiting the filling of the container without the lessor's permission.

(c) If a lessee or lessor misrepresents his ownership or the terms of his written lease under Subsection (6)(b), the lessee or lessor who made the misrepresentation, and not the person filling the tank, is liable for the damages under Subsection (6)(a).

(7) If a written container lease entered into after May 1, 1992, restricts the right to fill a leased container, the restriction shall be plainly stated in the lease in any manner designed to draw the attention of the lessee to the lease provision, including:

(a) typing the restriction in at least two point larger type than the majority of the document type;

(b) underlining the restriction; or

(c) typing the restriction in boldface type.

(8) A lessor whose container lease does not comply with Subsection (7) is disqualified from protection under Subsection (6).

Amended by Chapter 324, 2010 General Session

**53-7-316. Effect of part on state and local provision.**

(1) This part supersedes all other conflicting state laws or rules concerning LPG as regulated under this part.

(2) A municipality or other political subdivision may not adopt or enforce any ordinance or rule in conflict with this part, or with the rules made under this part.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-401. Title.**

This part is known as the "The Reduced Cigarette Ignition Propensity and Firefighter Protection Act."

Enacted by Chapter 362, 2007 General Session

**53-7-402. Definitions.**

As used in this part:

(1) "Agent" means any person authorized by the State Tax Commission to

purchase and affix stamps on packages of cigarettes.

(2) "Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape, and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

(3) "Manufacturer" means:

(a) any entity which:

(i) manufactures or otherwise produces cigarettes to be sold in the state;

(ii) causes cigarettes to be manufactured or produced anywhere with the intent to sell in the state; or

(iii) manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced with the intent to sell in the United States through an importer;

(b) the first purchaser anywhere that intends to resell in the United States cigarettes manufactured anywhere that the original manufacturer or maker does not intend to be sold in the United States; or

(c) any entity that becomes a successor of an entity described in Subsection (3)(a) or (3)(b).

(4) "Quality control and quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic, and nonsystematic methodological errors, and equipment related problems do not affect the results of the testing. Such a program ensures that the testing repeatability remains within the required repeatability values stated in Subsection 53-7-403(2)(f) for all test trials used to certify cigarettes in accordance with this part.

(5) "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall 95% of the time.

(6) "Retail dealer" means any person, other than a manufacturer or wholesale dealer, engaged in selling cigarettes or tobacco products.

(7) "Sale":

(a) means any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatever or any agreement therefore; and

(b) includes, in addition to cash and credit sales, the giving of cigarettes as samples, prizes, or gifts, and the exchanging of cigarettes for any consideration other than money.

(8) "Sell" means to sell, or to offer or agree to sell.

(9) "Wholesale dealer" means:

(a) any person who sells cigarettes or tobacco products to retail dealers or other persons for purposes of resale; and

(b) any person who owns, operates, or maintains one or more cigarette or tobacco product vending machines in, at, or upon premises owned or occupied by any other person.

Enacted by Chapter 362, 2007 General Session

**53-7-403. Test method and performance standard.**

(1) Except as provided in Subsection (8), no cigarettes may be sold or offered for sale in this state or offered for sale or sold to persons located in this state unless:

(a) the cigarettes have been tested in accordance with the test method required by this section;

(b) the cigarettes meet the performance standard specified in this section;

(c) a written certification has been filed by the manufacturer with the state fire marshal in accordance with Section 53-7-404; and

(d) the cigarettes have been marked in accordance with Section 53-7-405.

(2) (a) Testing of cigarettes shall be conducted in accordance with the American Society of Testing and Materials ("ASTM") standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes."

(b) Testing shall be conducted on 10 layers of filter paper.

(c) No more than 25% of the cigarettes tested in a test trial in accordance with this section shall exhibit full-length burns. Forty replicate tests shall comprise a complete test trial for each cigarette tested.

(d) The performance standard required by this section shall only be applied to a complete test trial.

(e) Written certifications shall be based upon testing conducted by a laboratory that has been accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization ("ISO"), or other comparable accreditation standard required by the state fire marshal.

(f) Laboratories conducting testing in accordance with this section shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value shall be no greater than 0.19.

(g) This section does not require additional testing if cigarettes are tested consistent with this part for any other purpose.

(h) Testing performed or sponsored by the state fire marshal to determine a cigarette's compliance with the performance standard required shall be conducted in accordance with this section.

(3) Each cigarette listed in a certification submitted pursuant to Section 53-7-404 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in this section shall have at least two nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least two bands fully located at least 15 millimeters from the lighting end and 10 millimeters from the filter end of the tobacco column, or 10 millimeters from the labeled end of the tobacco column for nonfiltered cigarettes.

(4) A manufacturer of a cigarette that the state fire marshal determines cannot be tested in accordance with the test method prescribed in Subsection (2)(a) shall propose a test method and performance standard for the cigarette to the state fire marshal. Upon approval of the proposed test method and a determination by the state fire marshal that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in Subsection (2)(c), the manufacturer may employ such test method and performance standard to certify such cigarette pursuant

to Section 53-7-404. If the state fire marshal determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in this part, and the state fire marshal finds that the officials responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's law or regulation under a legal provision comparable to this section, then the state fire marshal shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this state, unless the state fire marshal demonstrates a reasonable basis why the alternative test should not be accepted under this part. All other applicable requirements of this section shall apply to the manufacturer.

(5) Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three years, and shall make copies of these reports available to the state fire marshal and the attorney general upon written request. Any manufacturer who fails to make copies of these reports available within 60 days of receiving a written request shall be subject to a civil penalty not to exceed $10,000 for each day after the sixtieth day that the manufacturer does not make the copies available.

(6) The state fire marshal may adopt a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes upon a finding that the subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM Standard E2187-04 and the performance standard in Subsection (2)(c).

(7) The state fire marshal shall review the effectiveness of this section and report every three years to the Legislature the state fire marshal's findings and, if appropriate, recommendations for legislation to improve the effectiveness of this section. The report and legislative recommendations shall be submitted no later than November 1, 2011 and every November 1 of each three-year period thereafter.

(8) The requirements of Subsection (1) shall not prohibit wholesale or retail dealers from selling their existing inventory of cigarettes on or after July 1, 2008 if the wholesale or retail dealer can establish that state tax stamps were affixed to the cigarettes prior to July 1, 2008, and if the wholesale or retail dealer can establish that the inventory was purchased prior to July 1, 2008 in comparable quantity to the inventory purchased during the same period of the prior year.

(9) This part shall be implemented in accordance with the implementation and substance of the New York Fire Safety Standards for Cigarettes.

Enacted by Chapter 362, 2007 General Session

**53-7-404. Certification and product change -- Restricted account created.**

(1) Each manufacturer shall submit to the state fire marshal a written certification attesting that:

(a) each cigarette listed in the certification has been tested in accordance with Section 53-7-403; and

(b) each cigarette listed in the certification meets the performance standard set forth in Subsection 53-7-403(2)(c).

(2) Each cigarette listed in the certification shall be described with the following information:

(a) brand, or trade name on the package;

(b) style, such as light or ultra light;

(c) length in millimeters;

(d) circumference in millimeters;

(e) flavor, such as menthol or chocolate, if applicable;

(f) filter or nonfilter;

(g) package description, such as soft pack or box;

(h) marking approved in accordance with Section 53-7-405;

(i) the name, address, and telephone number of the laboratory, if different than the manufacturer that conducted the test; and

(j) the date that the testing occurred.

(3) The certifications shall be made available to the attorney general for purposes consistent with this part and the State Tax Commission for the purposes of ensuring compliance with this section.

(4) Each cigarette certified under this section shall be recertified every three years.

(5) For each cigarette listed in a certification, a manufacturer shall pay to the state fire marshal a $250 fee. The state fire marshal is authorized to annually adjust this fee to ensure it defrays the actual costs of the processing, testing, enforcement, and oversight activities required by this part.

(6) (a) Beginning July 1, 2008, there is created a restricted account within the General Fund called the "Reduced Cigarette Ignition Propensity and Firefighter Protection Act Enforcement Account."

(b) The account created in Subsection (6)(a) shall consist of all certification fees submitted by manufacturers.

(c) (i) The state treasurer shall invest money in the account according to Title 51, Chapter 7, State Money Management Act.

(ii) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the General Fund.

(d) Upon appropriations from the Legislature, money from the account created in Subsection (6)(a) shall be used by the state fire marshal solely to support processing, testing, enforcement, and oversight activities under this part.

(7) (a) If a manufacturer has certified a cigarette pursuant to this section, and thereafter makes any change to the certified cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by this part, that cigarette shall not be sold or offered for sale in this state until the manufacturer:

(i) retests the cigarette in accordance with the testing standards set forth in Section 53-7-403; and

(ii) maintains records of that retesting as required by Section 53-7-403.

(b) Any altered cigarette which does not meet the performance standard set forth in Section 53-7-403 may not be sold in this state.

Amended by Chapter 216, 2008 General Session

**53-7-405. Marking of cigarette packaging.**

(1) Cigarettes that are certified by a manufacturer in accordance with Section 53-7-404 shall be marked to indicate compliance with the requirements of Section 53-7-403. The marking shall be in eight-point type or larger and consist of:

(a) modification of the product UPC code to include a visible mark printed at or around the area of the UPC code, which may include alphanumeric or symbolic characters permanently stamped, engraved, embossed, or printed in conjunction with the UPC;

(b) any visible combination of alphanumeric or symbolic characters permanently stamped, engraved, or embossed upon the cigarette package or cellophane wrap; or

(c) printed, stamped, engraved, or embossed text that indicates that the cigarettes meet the standards of this part.

(2) A manufacturer shall use only one marking, and shall apply this marking uniformly for all packages marketed by the manufacturer, including:

(a) packs;

(b) cartons;

(c) cases; and

(d) any brands marketed by that manufacturer.

(3) The manufacturer shall notify the state fire marshal of the marking that it has selected in accordance with Subsection (2).

(4) Prior to the certification of any cigarette, a manufacturer shall present its proposed marking to the state fire marshal for approval. Upon receipt of the request, the state fire marshal shall approve or disapprove the marking offered, except that the state fire marshal shall approve any marking in use and approved for sale in New York pursuant to the New York Fire Safety Standards for Cigarettes. Proposed markings shall be considered approved if the state fire marshal fails to act within 10 business days of receiving a request for approval.

(5) No manufacturer shall modify its approved marking unless the modification has been approved by the state fire marshal in accordance with this section.

(6) (a) Manufacturers certifying cigarettes in accordance with Section 53-7-404 shall provide:

(i) a copy of the certifications to all wholesale dealers and agents to which they sell cigarettes; and

(ii) sufficient copies of an illustration of the package marking utilized by the manufacturer pursuant to this section for each retail dealer to which the wholesale dealers or agents sell cigarettes.

(b) Wholesale dealers and agents shall provide a copy of the package markings received from manufacturers under Subsection (6)(a) to all retail dealers to which they sell cigarettes.

(c) Wholesale dealers, agents, and retail dealers shall permit the state fire marshal, the State Tax Commission, the attorney general, and their employees to inspect markings of cigarette packaging marked in accordance with this section.

Enacted by Chapter 362, 2007 General Session

**53-7-406. Penalties.**

(1) (a) Except as provided in Subsection (1)(b), a manufacturer, wholesale dealer, agent, or any other person or entity who knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of Section 53-7-403:

(i) for a first offense shall be liable for a civil penalty not to exceed $10,000 per each sale of cigarettes; and

(ii) for a subsequent offense shall be liable for a civil penalty not to exceed $25,000 per each sale of such cigarettes.

(b) A penalty imposed under Subsection (1)(a) may not exceed $100,000 during any 30-day period against any one entity described in Subsection (1).

(2) (a) Except as provided in Subsection (2)(b), a retail dealer who knowingly sells cigarettes in violation of Section 53-7-403 shall:

(i) for a first offense for each sale or offer for sale of cigarettes, if the total number of cigarettes sold or offered for sale:

(A) does not exceed 1,000 cigarettes, be liable for a civil penalty not to exceed $500 for each sale or offer of sale; and

(B) does exceed 1,000 cigarettes, be liable for a civil penalty not to exceed $1,000 for each sale or offer of sale; and

(ii) for a subsequent offense, if the total number of cigarettes sold or offered for sale:

(A) does not exceed 1,000 cigarettes, be liable for a civil penalty not to exceed $2,000 for each sale or offer of sale; and

(B) does exceed 1,000 cigarettes, be liable for a civil penalty not to exceed $5,000 for each sale or offer of sale.

(b) A penalty imposed under Subsection (2)(a) against any retail dealer shall not exceed $25,000 during a 30-day period.

(3) In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to Section 53-7-404 shall, for each false certification:

(a) for a first offense, be liable for a civil penalty of at least $75,000; and

(b) for a subsequent offense, be liable for a civil penalty not to exceed $250,000.

(4) Any person violating any other provision in this part shall be liable for a civil penalty for each violation:

(a) for a first offense, not to exceed $1,000; and

(b) for a subsequent offense, not to exceed $5,000.

(5) In addition to any other remedy provided by law, the state fire marshal or attorney general may file an action in district court for a violation of this part, including petitioning for injunctive relief or to recover any costs or damages suffered by the state because of a violation of this part, including enforcement costs relating to the specific violation and attorney fees. Each violation of this part or of rules or regulations adopted under this part constitutes a separate civil violation for which the state fire marshal or attorney general may obtain relief.

Amended by Chapter 394, 2013 General Session

**53-7-407. Implementation -- Effect of part on Model Tobacco Settlement Act and Tobacco Tax and Licensing Act.**

(1) The state fire marshal may promulgate rules and regulations, pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to effectuate the purposes of this part.

(2) The State Tax Commission in the regular course of conducting inspections of wholesale dealers, agents, and retail dealers, as authorized under Title 59, Chapter 14, Cigarette and Tobacco Tax and Licensing Act, may inspect cigarettes to determine if the cigarettes are marked as required by Section 53-7-405. If the cigarettes are not marked as required, the State Tax Commission shall notify the state fire marshal.

(3) Nothing in this part shall affect an entity's obligations pursuant to:

(a) Title 59, Chapter 14, Cigarette and Tobacco Tax and Licensing Act; or

(b) Title 59, Chapter 22, Model Tobacco Settlement Act.

Amended by Chapter 382, 2008 General Session

**53-7-408. Inspection.**

To enforce the provisions of this part, the attorney general and the state fire marshal are hereby authorized to examine the books, papers, invoices, and other records of any person in possession, control, or occupancy of any premises where cigarettes are placed, stored, sold, or offered for sale, as well as the stock of cigarettes on the premises. Every person in the possession, control, or occupancy of any premises where cigarettes are placed, sold, or offered for sale, is hereby directed and required to give the attorney general and the state fire marshal the means, facilities, and opportunity for the examinations authorized by this section.

Enacted by Chapter 362, 2007 General Session

**53-7-409. Sale outside of Utah.**

Nothing in this part shall be construed to prohibit any person or entity from manufacturing or selling cigarettes that do not meet the requirements of Section 53-7-403 if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States and that person or entity has taken reasonable steps to ensure that such cigarettes will not be sold or offered for sale to persons located in this state.

Enacted by Chapter 362, 2007 General Session

**53-7-410. Preemption.**

This part shall be repealed if a federal reduced cigarette ignition propensity standard that preempts this part is adopted and becomes effective.

Enacted by Chapter 362, 2007 General Session

**53-7-411. Local regulation.**

Notwithstanding any other provision of law, a political subdivision of this state may neither enact nor enforce any ordinance or other local law or regulation conflicting with, or preempted by, any provision of this part or with any policy of this state expressed by this part, whether that policy be expressed by inclusion of a provision in this part or by exclusion of that subject from this part.

Enacted by Chapter 362, 2007 General Session

**53-7-501. Title.**

This part is known as "Regulation of Novelty Lighters."

Enacted by Chapter 376, 2010 General Session

**53-7-502. Definitions.**

As used in this part:

(1) "Audio effect" includes music, animal sounds, whistles, buzzers, or other noises not pertinent to the flame-producing function of the lighter.

(2) (a) "Distribute" means to:

(i) deliver to a person other than the purchaser; or

(ii) provide as part of a commercial promotion or as a prize or premium.

(b) "Distribute" does not include providing as a personal gift.

(3) "Importer" means a person who causes a lighter to enter this state from a manufacturing, wholesale, distribution, or retail sales point outside this state:

(a) for the purpose of selling or distributing the lighter within this state; or

(b) with the result that the lighter is sold or distributed within this state.

(4) "Lighter" means a handheld mechanical device of a type typically used for igniting tobacco products by use of a flame.

(5) "Misleading design" means a lighter that:

(a) has a shape that resembles or imitates an object other than a lighter;

(b) may have one or more audio or visual effects; and

(c) has other features of a type that would reasonably be expected to make the lighter appealing or attractive to a child younger than 10 years of age.

(6) "Novelty lighter":

(a) means a lighter that has:

(i) a misleading design; and

(ii) operates on any fuel, including butane or liquid fuel;

(b) does not mean:

(i) a lighter manufactured before January 1, 1980;

(ii) a lighter that has been rendered permanently incapable of producing a flame or otherwise causing combustion; or

(iii) a mechanical device primarily used to ignite fuel for fireplaces, or for charcoal or gas grills.

(7) "Sell" means to provide or promise to provide a product to a wholesale, retail, mail-order, or other purchaser in exchange for consideration.

(8) "Visual effect":

(a) includes flashing lights, color-changing lights, or changing images; and
(b) does not include logos, decals, decorative artwork, or heat-shrinkable sleeves.

Enacted by Chapter 376, 2010 General Session

**53-7-503. Rulemaking authority -- Publicly accessible list of contraband lighters maintained by the state fire marshal -- Authority to seize and destroy novelty lighters.**

(1) The Utah Fire Prevention Board, created in Section 53-7-203, may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
(a) identify lighters or classes or types of lighters that are novelty lighters; and
(b) provide for an informal adjudicative hearing, as provided in Section 63G-4-203, by the board to hear appeals of decisions of the State Fire Marshal Division under this part.
(2) (a) The state fire marshal shall establish and maintain a list of lighters, or classes and types of lighters, that the state fire marshal has determined to be novelty lighters under this part.
(b) The state fire marshal shall make the list available on the website maintained by the Department of Public Safety.
(3) A lighter is a contraband item subject to seizure and destruction by the state fire marshal, a representative of the state fire marshal, a local fire enforcement official, or by a law enforcement agency, if the lighter is:
(a) listed, or of a class or type listed, by the state fire marshal as a novelty lighter; and
(b) offered for sale, sold, or distributed in this state.
(4) (a) The state fire marshal, a representative of the state fire marshal, a local fire enforcement official, or a law enforcement agency may seize a novelty lighter that is not described in Subsection (3).
(b) Upon finding that the person from whom the novelty lighter was seized is subject to a civil penalty under Section 53-7-504 for being an importer, wholesaler, seller, or distributor of the novelty lighter, the state fire marshal or a representative may order that the novelty lighter be forfeited and destroyed.

Enacted by Chapter 376, 2010 General Session

**53-7-504. Offenses -- Civil penalties -- Penalty money to be deposited in the Fire Academy Support Account.**

(1) (a) A person may not sell, offer for sale, or distribute a novelty lighter in this state.
(b) A person may not import a novelty lighter into this state for the purpose of selling or distributing the novelty lighter within this state.
(c) A person may not possess a novelty lighter in inventory for the purpose of selling or distributing the novelty lighter within this state.
(2) (a) The state fire marshal may assess a civil penalty against a person who violates Subsection (1) in accordance with Title 63G, Chapter 4, Administrative

Procedures Act.

(b) The civil penalty for a violation of Subsection (1) may not exceed:

(i) $10,000 for the importation of novelty lighters;

(ii) $1,000 if the person acts as a wholesaler of novelty lighters or distributes novelty lighters by means other than distribution directly to consumers; and

(iii) $500 if the person is:

(A) a retail seller of novelty lighters; or

(B) a person distributing novelty lighters, other than as a manufacturer, importer, or wholesaler.

(3) If a person continues to violate this section after the state fire marshal gives the person written notice of a violation, each day that the violation continues after written notice is given is a separate offense subject to a civil penalty.

(4) (a) For purposes of imposing civil penalties, it is prima facie evidence that a lighter is a novelty lighter if the lighter is listed by the state fire marshal as a novelty lighter under Section 53-7-503, or is of a class or type of lighter listed by the state fire marshal as a novelty lighter.

(b) Listing by the state fire marshal is not a requirement for a determination that a lighter is a novelty lighter.

(5) All money collected from civil penalties under this section shall be deposited in the Fire Academy Support Account created in Section 53-7-204.2.

(6) A person may seek judicial review of a final agency action under this part as provided in Title 63G, Chapter 4, Administrative Procedures Act.

Enacted by Chapter 376, 2010 General Session

**53-7-505. Authority to have reasonable access to inspect facilities and records.**

(1) The state fire marshal, a representative of the state fire marshal, or a local fire enforcement official may conduct inspections to ensure compliance with Section 53-7-504. The state fire marshal, a representative of the state fire marshal, or a local fire enforcement official may, regarding facilities within this state used in the business of importing, distributing, selling, or storing of lighters:

(a) have access during reasonable business hours;

(b) inspect the facilities and any lighters located at the facilities; and

(c) inspect all business records pertaining to lighter import, distribution, sale, or storage.

(2) A person engaged in this state in the business of importing, distributing, selling, or storing lighters shall grant the state fire marshal, a representative of the state fire marshal, or a local fire enforcement official reasonable access for conducting inspections under Subsection (1).

Enacted by Chapter 376, 2010 General Session

**53-7-506. Attorney general may bring action at request of the state fire marshal.**

The state attorney general may bring an action at the request of the state fire

marshal, in the name of the state, seeking:

(1) injunctive relief to prevent or end a violation of Section 53-7-504 or 53-7-505;
(2) to recover civil penalties imposed under Section 53-7-504;
(3) to obtain access for inspections under Section 53-7-505; or
(4) to recover attorney fees and other enforcement costs.

Enacted by Chapter 376, 2010 General Session

**53-8-101. Short title.**

This chapter is known as the "Utah Highway Patrol Act."

Enacted by Chapter 234, 1993 General Session

**53-8-102. Definitions.**

As used in this chapter:

(1) "Division" means the Utah Highway Patrol Division created in Section 53-8-103.
(2) "Highway Patrol" means the Highway Patrol troopers employed under Section 53-8-104.
(3) "Superintendent" means the director of the division, appointed under Section 53-8-103.

Enacted by Chapter 234, 1993 General Session

**53-8-103. Utah Highway Patrol Division -- Creation -- Appointment of superintendent -- Powers -- Qualifications -- Term -- Compensation.**

(1) There is created the Utah Highway Patrol Division.
(2) The director of the division shall be the superintendent appointed by the commissioner with the approval of the governor.
(3) The superintendent is the executive and administrative head of the division and shall be experienced in administration and possess additional qualifications as determined by the commissioner.
(4) The superintendent acts under the supervision and control of the commissioner and may be removed from his position at the will of the commissioner.
(5) The superintendent shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-8-104. Superintendent's duties.**

The superintendent shall:

(1) divide the state highways into sections for the purpose of patrolling and policing;
(2) employ peace officers known as highway patrol troopers to patrol or police the highways within this state and to enforce the state statutes as required;
(3) establish ranks, grades, and positions in the Highway Patrol and designate

the authority and responsibility in each rank, grade, and position;

(4) establish for the Highway Patrol standards and qualifications and fix prerequisites of training, education, and experience for each rank, grade, and position;

(5) appoint personnel to each rank, grade, and position necessary for the efficient operation and administration of the Highway Patrol;

(6) devise and administer examinations designed to test applicants for positions with the Highway Patrol;

(7) make rules governing the Highway Patrol as appear to the superintendent advisable;

(8) discharge, demote, or temporarily suspend any employee in the Highway Patrol for cause;

(9) prescribe the uniforms to be worn and the equipment to be used by employees of the Highway Patrol;

(10) charge against each employee of the Highway Patrol the value of any property of the state lost or destroyed through the carelessness of the employee;

(11) establish, with the approval of the Division of Finance, the terms and conditions under which expense allowance should be paid to any employee of the Highway Patrol while away from his station;

(12) station the Highway Patrol in localities as he finds advisable for the enforcement of the laws of this state;

(13) conduct in conjunction with the State Board of Education in and through all state schools an educational campaign in highway safety and work in conjunction with civic organizations, churches, local units of government, and other organizations that may function in accomplishing the purposes of reducing highway accidents;

(14) provide the initial mandatory uniform items for each new trooper hired after July 1, 1998;

(15) determine by rule a basic uniform allowance system which includes the manner in which troopers may receive maintenance services and vouchers for basic uniforms and administer any funds appropriated by the Legislature to the division for that purpose; and

(16) on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender.

Amended by Chapter 219, 2002 General Session

**53-8-105. Duties of Highway Patrol.**

In addition to the duties in this chapter, the Highway Patrol shall:

(1) enforce the state laws and rules governing use of the state highways;

(2) regulate traffic on all highways and roads of the state;

(3) assist the governor in an emergency or at other times at his discretion;

(4) in cooperation with federal, state, and local agencies, enforce and assist in the enforcement of all state and federal laws related to the operation of a motor carrier on a highway, including all state and federal rules and regulations;

(5) inspect certain vehicles to determine road worthiness and safe condition as provided in Section 41-6a-1630;

(6) upon request, assist with any condition of unrest existing or developing on a campus or related facility of an institution of higher education;
(7) assist the Alcoholic Beverage Control Commission in an emergency to enforce the state liquor laws;
(8) provide security and protection for both houses of the Legislature while in session as the speaker of the House of Representatives and the president of the Senate finds necessary; and
(9) carry out the following for the Supreme Court and the Court of Appeals:
(a) provide security and protection to those courts when in session in the capital city of the state;
(b) execute orders issued by the courts; and
(c) carry out duties as directed by the courts.

Amended by Chapter 2, 2005 General Session

**53-8-106. Vested with powers of peace officers.**
(1) The commissioner, superintendent, and each member of the Highway Patrol have the powers of peace officers in each county of the state with the exception of the power to serve civil process.
(2) They may serve criminal process, arrest and prosecute violators of any law of this state, and have the same right as other peace officers to require aid in executing their duties.
(3) The powers and duties conferred upon the superintendent and members of the Highway Patrol are supplementary to and not a limitation on the powers and duties of other peace officers in the state.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-8-107. Cooperation with other officers.**
To secure information in order to achieve greater success in prevention and detection of crime and apprehension of criminals, the Highway Patrol shall cooperate and exchange information with:
(1) any other departments of the state;
(2) other law enforcement agencies, both within and outside this state; and
(3) federal law enforcement agencies.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-8-201. Short title.**
This part is known as the "Motor Vehicle Safety Inspection Act."

Enacted by Chapter 234, 1993 General Session

**53-8-202. Definitions.**
(1) The definitions in Section 41-6a-102 apply to this part.
(2) As used in this part, "council" means the Motor Vehicle Safety Inspection

Advisory Council created in Section 53-8-203.

Amended by Chapter 2, 2005 General Session

**53-8-203. Council created -- Members -- Term -- Meetings -- Duties.**

(1) There is created within the division the Motor Vehicle Safety Inspection Advisory Council.

(2) (a) The council shall be composed of seven members.

(b) The governor shall appoint:

(i) one member from the general public with experience or interest in product safety or consumer advocacy;

(ii) two representatives from motor vehicle mechanics and motor vehicle repair business owners;

(iii) one member of the motoring public with no former or current affiliation with the motor vehicle sales, repair, or fuel industry or its regulation;

(iv) one peace officer with experience in motor vehicle law enforcement;

(v) one representative of the commercial trucking industry; and

(vi) one representative of the staff of the attorney general who shall serve without voting privileges.

(3) Each member of the council shall:

(a) be selected on a nonpartisan basis;

(b) be appointed by the governor; and

(c) have been a legal resident of the state for at least one year immediately preceding the date of appointment.

(4) (a) Except as required by Subsection (4)(b), as terms of current council members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(c) Members serve from the date of appointment until a replacement is appointed.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(6) The council shall elect its own chair and vice-chair at its first regular meeting each calendar year.

(7) All meetings of the council shall be called by the superintendent of the highway patrol as needed.

(8) Any three voting members constitute a quorum for the transaction of business that comes before the council.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

63A-3-107.

(10) The council shall:

(a) hear appeals of administrative actions regarding the suspension or revocation of safety inspection station permits and safety inspector certificates;

(b) advise the division on interpretation, adoption, and implementation of motor vehicle safety inspection standards; and

(c) advise the division on other motor vehicle safety inspection issues as requested by the superintendent.

(11) In conducting appeal hearings on the suspension or revocation of any safety inspection station permit or safety inspector certificate the council may:

(a) compel the attendance of witnesses by subpoena;

(b) require the production of any records or documents determined by it to be pertinent to the subject matter of the hearing; and

(c) apply to the district court of the county where the hearing is held for an order citing any applicant or witness for contempt and for failure to attend, testify, or produce required documents.

Amended by Chapter 286, 2010 General Session

**53-8-204. Division duties -- Official inspection stations -- Permits -- Fees -- Suspension or revocation -- Utah-based interstate commercial motor carriers.**

(1) The division shall:

(a) conduct examinations of every safety inspection station permit applicant and safety inspector certificate applicant to determine whether the applicant is properly equipped and qualified to make safety inspections;

(b) issue safety inspection station permits and safety inspector certificates to qualified applicants;

(c) establish application, renewal, and reapplication fees in accordance with Section 63J-1-504 for safety inspection station permits and safety inspector certificates;

(d) provide instructions and all necessary forms, including safety inspection certificates, to safety inspection stations for the inspection of motor vehicles and the issuance of the safety inspection certificates;

(e) investigate complaints regarding safety inspection stations and safety inspectors;

(f) compile and publish all applicable safety inspection laws, rules, instructions, and standards and distribute them to all safety inspection stations and provide updates to the compiled laws, rules, instructions, and standards as needed;

(g) establish a fee in accordance with Section 63J-1-504 to cover the cost of compiling and publishing the safety inspection laws, rules, instructions, and standards and any updates; and

(h) assist the council in conducting its meetings and hearings.

(2) (a) Receipts from the fees established in accordance with Subsection (1)(g) are fixed collections to be used by the division for the expenses of the Utah Highway Patrol incurred under Subsection (1)(g).

(b) Funds received in excess of the expenses under Subsection (1)(g) shall be deposited in the Transportation Fund.

(3) The division may:

(a) before issuing a safety inspection permit, require an applicant, other than a fleet station or government station, to file a bond that will provide a guarantee that the applicant safety inspection station will make compensation for any damage to a motor vehicle during an inspection or adjustment due to negligence on the part of an applicant or the applicant's employees;

(b) establish procedures governing the issuance of safety inspection certificates to Utah-based interstate commercial motor carriers;

(c) suspend, revoke, or refuse renewal of any safety inspection station permit issued when the division finds that the safety inspection station is not:

(i) properly equipped; or

(ii) complying with rules made by the division; and

(d) suspend, revoke, or refuse renewal of any safety inspection station permit or safety inspector certificate issued when the station or inspector has violated any safety inspection law or rule.

(4) The division shall maintain a record of safety inspection station permits and safety inspector certificates issued, suspended, revoked, or refused renewal under Subsection (3)(c).

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(a) setting minimum standards covering the design, construction, condition, and operation of motor vehicle equipment for safely operating a motor vehicle on the highway;

(b) establishing motor vehicle safety inspection procedures to ensure a motor vehicle can be operated safely;

(c) establishing safety inspection station building, equipment, and personnel requirements necessary to qualify to perform safety inspections;

(d) establishing age, training, examination, and renewal requirements to qualify for a safety inspector certificate;

(e) establishing program guidelines for a school district that elects to implement a safety inspection apprenticeship program for high school students;

(f) establishing requirements:

(i) designed to protect consumers from unwanted or unneeded repairs or adjustments;

(ii) for maintaining safety inspection records;

(iii) for providing reports to the division; and

(iv) for maintaining and protecting safety inspection certificates;

(g) establishing procedures for a motor vehicle that fails a safety inspection;

(h) setting bonding amounts for safety inspection stations if bonds are required under Subsection (3)(a); and

(i) establishing procedures for a safety inspection station to follow if the station is going out of business.

(6) The rules of the division:

(a) shall conform as nearly as practical to federal motor vehicle safety standards including 49 C.F.R. Parts 393, 396, 396 Appendix G, and Federal Motor Vehicle Safety Standards 205; and

(b) may incorporate by reference, in whole or in part, the federal standards under Subsection (6)(a) and nationally recognized and readily available standards and codes on motor vehicle safety.

Amended by Chapter 356, 2012 General Session

**53-8-205. Safety inspection required -- Frequency of safety inspection -- Safety inspection certificate required -- Out-of-state permits.**

(1) (a) Except as provided in Subsection (1)(b), a person may not operate on a highway a motor vehicle required to be registered in this state unless the motor vehicle has passed a safety inspection if required in the current year.

(b) Subsection (1)(a) does not apply to:

(i) a vehicle that is exempt from registration under Section 41-1a-205;

(ii) an off-highway vehicle, unless the off-highway vehicle is being registered as a street-legal all-terrain vehicle in accordance with Section 41-6a-1509;

(iii) a vintage vehicle as defined in Section 41-21-1;

(iv) a commercial vehicle with a gross vehicle weight rating over 26,000 pounds that:

(A) is operating with an apportioned registration under Section 41-1a-301; and

(B) has a valid annual federal inspection that complies with the requirements of 49 C.F.R. Sec. 396.17; and

(v) a trailer, semitrailer, or trailering equipment attached to a commercial motor vehicle described in Subsection (1)(b)(iv) that has a valid annual federal inspection that complies with the requirements of 49 C.F.R. Sec. 396.17.

(2) Except as provided in Subsection (3), the frequency of the safety inspection shall be determined based on the age of the vehicle determined by model year and shall:

(a) be required each year for a vehicle that is 10 or more years old on January 1; or

(b) for each vehicle that is less than 10 years old on January 1, be required in the fourth year and the eighth year;

(c) be made by a safety inspector certified by the division at a safety inspection station authorized by the division;

(d) cover an inspection of the motor vehicle mechanism, brakes, and equipment to ensure proper adjustment and condition as required by department rules; and

(e) include an inspection for the display of license plates in accordance with Section 41-1a-404.

(3) (a) (i) A salvage vehicle as defined in Section 41-1a-1001 is required to pass a safety inspection when an application is made for initial registration as a salvage vehicle.

(ii) After initial registration as a salvage vehicle, the frequency of the safety inspection shall correspond with the model year, as provided in Subsection (2).

(b) Beginning on the date that the Motor Vehicle Division has implemented the Motor Vehicle Division's GenTax system, a commercial vehicle as defined in Section 41-1a-102 with a gross vehicle weight rating of 10,001 pounds or more is required to pass a safety inspection annually or comply with Subsection (1)(b)(iv)(B).

(4) (a) A safety inspection station shall issue two safety inspection certificates to the owner of:

(i) each motor vehicle that passes a safety inspection under this section; and

(ii) a street-legal all-terrain vehicle that meets all the equipment requirements in Section 41-6a-1509.

(b) A safety inspection station shall use one safety inspection certificate issued under this Subsection (4) for processing the vehicle registration.

(c) A person operating a motor vehicle shall have in the person's immediate possession a safety inspection certificate or other evidence of compliance with the requirement to obtain a safety inspection under this section.

(5) The division may:

(a) authorize the acceptance in this state of a safety inspection certificate issued in another state having a safety inspection law similar to this state; and

(b) extend the time within which a safety inspection certificate must be obtained by the resident owner of a vehicle that was not in this state during the time a safety inspection was required.

Amended by Chapter 453, 2013 General Session

**53-8-206. Safety inspection -- Station requirements -- Permits not transferable -- Certificate of inspection -- Fees -- Unused certificates -- Suspension or revocation of permits.**

(1) The safety inspection required under Section 53-8-205 may only be performed:

(a) by a person certified by the division as a safety inspector; and

(b) at a safety inspection station with a valid safety inspection station permit issued by the division.

(2) A safety inspection station permit may not be assigned or transferred or used at any location other than a designated location, and every safety inspection station permit shall be posted in a conspicuous place at the location designated.

(3) If required by the division, a record and report shall be made of every safety inspection and every safety inspection certificate issued.

(4) A safety inspection station holding a safety inspection station permit issued by the division may charge a reasonable fee for labor in performing safety inspections, not to exceed:

(a) $7 or less for motorcycles and street-legal all-terrain vehicles;

(b) unless Subsection (4)(a) or (c) applies, $15 or less for motor vehicles; or

(c) $20 or less for 4-wheel drive, split axle, and any motor vehicles that necessitate disassembly of front hub or removal of rear axle for inspection.

(5) A safety inspection station may return unused safety inspection certificates in a quantity of 10 or more and shall be reimbursed by the division for the cost of the safety inspection certificates.

(6) (a) Upon receiving notice of the suspension or revocation of a safety inspection station permit, the safety inspection station permit holder shall immediately terminate all safety inspection activities and return all safety inspection certificates and the safety inspection station permit to the division.

(b) The division shall issue a receipt for all unused safety inspection certificates.

Amended by Chapter 356, 2012 General Session

**53-8-207. Falsely representing to be official station or safety inspector.**

(1) A person may not in any manner represent any place as a safety inspection station unless the station is operating under a valid permit issued by the division.

(2) A person may not issue a safety inspection certificate unless the person:

(a) is a safety inspector certified by the division;

(b) is operating under a valid safety inspection station permit issued by the division; and

(c) performs the safety inspection on the motor vehicle in compliance with Section 53-8-205.

(3) An unauthorized person may not knowingly possess safety inspection certificates.

Renumbered and Amended by Chapter 26, 1993 General Session
Renumbered and Amended by Chapter 234, 1993 General Session

**53-8-208. Counterfeit certificates of inspection.**

(1) A person may not make, issue, or knowingly use any imitation or counterfeit of a safety inspection certificate.

(2) A person may not present or cause or permit to be presented any safety inspection certificate knowing the certificate to be fictitious, issued for another motor vehicle, or issued without a safety inspection having been made and passed.

Renumbered and Amended by Chapter 26, 1993 General Session
Renumbered and Amended by Chapter 234, 1993 General Session

**53-8-209. Inspection by officers -- Certificate of inspection.**

(1) A peace officer may stop, inspect, and test a vehicle at any time upon reasonable cause to believe that:

(a) a vehicle is unsafe or not equipped as required by law; or

(b) that its equipment is not in proper adjustment or repair.

(2) (a) (i) If a vehicle is found to be in unsafe condition or any required part or equipment is not present or is not in proper repair and adjustment, the officer shall give a written notice to the driver and shall send a copy to the division.

(ii) The notice shall:

(A) require that the vehicle be placed in safe condition and its equipment in proper repair and adjustment;

(B) specify the repairs and adjustments needed; and

(C) require that a safety inspection certificate be obtained within five days.

(b) If a vehicle is, in the reasonable judgment of the peace officer, hazardous to operate, the peace officer may require that the vehicle:

(i) not be operated under its own power; or

(ii) be driven to the nearest garage or other place of safety.

(c) If the owner or driver does not comply with the notice requirements and secure a safety inspection certificate within five days, the vehicle may not be operated on the highways of this state.

Renumbered and Amended by Chapter 26, 1993 General Session
Renumbered and Amended by Chapter 234, 1993 General Session

**53-8-210. Enforcement of inspection requirements.**

(1) A person operating a vehicle shall submit the vehicle to a safety inspection when required to do so by a peace officer.

(2) (a) An owner or driver, upon receiving a notice as provided in Section 53-8-209, shall within five days secure a safety inspection certificate, which shall be issued in duplicate, one copy to be retained by the owner or driver and the other copy to be forwarded to the division.

(b) In lieu of compliance with this subsection, the vehicle may not be operated, except as provided in Subsection (3).

(3) (a) A person may not operate any vehicle after receiving a notice from a peace officer that the vehicle is in need of repair or adjustment, except that a peace officer may allow the vehicle to be driven to the residence or place of business of the owner or driver or to the nearest garage where repairs are available if driving the vehicle is not excessively dangerous.

(b) The vehicle may not be operated again on the highways until its equipment has been placed in proper repair and adjustment and otherwise conforms to the requirements of this part and Title 41, Chapter 6, Traffic Rules and Regulations, and a safety inspection certificate is obtained as promptly as possible.

(4) If repair or adjustment of any vehicle or its equipment is necessary, the owner of the vehicle may obtain repair or adjustment at any place he may choose.

Renumbered and Amended by Chapter 26, 1993 General Session
Renumbered and Amended by Chapter 234, 1993 General Session

**53-8-211. Safety inspection of school buses and other vehicles.**

(1) (a) The Highway Patrol shall:

(i) perform safety inspections at least twice each school year on all school buses operated by each school district and each private school in the state for the transportation of students, except as otherwise provided in Subsection (1)(b); and

(ii) cause to be removed from the public highways any vehicle found to have mechanical or other defects under Subsection (1)(a) endangering the safety of passengers and the public until the defects have been corrected.

(b) (i) A school district or private school may perform the safety inspections of a school bus that it operates in accordance with rules made by the division under Title 63G, Chapter 3, Utah Administrative Rule Making Act, and after consultation with the State Board of Education.

(ii) The rules under Subsection (1)(b)(i) shall include provisions for:

(A) maintaining school bus drivers' hours of service records;

(B) requiring school bus drivers to maintain vehicle condition reports;

(C) maintaining school bus maintenance and repair records; and

(D) validating that defects discovered during the inspection process have been corrected prior to returning a school bus to service.

(iii) (A) The division shall audit school bus safety operations of each school district and private school performing inspections under Subsection (1)(b)(i) to ensure compliance with the rules made under that subsection.

(B) The audit may include both a formal examination of the district's or school's inspection records and a random physical inspection of buses that have been safety inspected by the district or the school.

(iv) A school district or school must have a comprehensive school bus maintenance plan approved by the division in order to participate in the safety inspection program.

(v) A school district or private school may not operate any vehicle found to have mechanical or other defects that would endanger the safety of passengers and the public until the defects have been corrected.

(2) Motor vehicles operated by private schools or school districts, and not used for the transportation of students, are subject to Section 53-8-205.

Amended by Chapter 382, 2008 General Session

**53-8-211.5. School bus safety standards -- Exceptions.**

(1) Beginning July 1, 2003, a school district or private school may not use a vehicle with a seating capacity of 11 or more, including the driver, for the transportation of its students unless the vehicle meets federal school bus safety standards under 49 U.S.C. Sec. 30101, et seq.

(2) Subsection (1) does not apply to a vehicle operated by a common carrier, as defined in Section 59-12-102, if the common carrier is not exclusively engaged in the transportation of students.

Enacted by Chapter 154, 2001 General Session

**53-8-212. Suspension of registration.**

The State Tax Commission shall suspend the registration of any vehicle the division determines is in an unsafe condition or which after notice and demand is not equipped as required in this part and Title 41, Motor Vehicles.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-8-213. Special function officer status for certain employees -- Retirement provisions.**

(1) The commissioner may designate an employee of the Utah Highway Patrol Division as a special function officer, as defined in Section 53-13-105, for the purpose of enforcing all laws relating to vehicle parts and equipment, including the provisions of this part and Title 41, Chapter 6a, Part 16, Vehicle Equipment.

(2) Notwithstanding Section 49-15-201, a special function officer designated under this section may not become or be designated as a member of the Public Safety

Retirement Systems.

Amended by Chapter 2, 2005 General Session

**53-8-301. Title.**

This part is known as the "Aero Bureau Act."

Enacted by Chapter 71, 2012 General Session

**53-8-302. Definitions.**

As used in this section, "Aero Bureau" means the bureau within the division that provides aerial assistance for law enforcement activities within the state.

Enacted by Chapter 71, 2012 General Session

**53-8-303. Utah Highway Patrol Aero Bureau Restricted Account.**

(1) As used in this section, "account" means the Utah Highway Patrol Aero Bureau Restricted Account created by this section.

(2) There is created a restricted account in the General Fund known as the "Utah Highway Patrol Aero Bureau Restricted Account."

(3) The account shall consist of:

(a) money deposited into the account in accordance with Section 41-22-19;

(b) money appropriated to the account by the Legislature; and

(c) any other public or private money received by the division that is:

(i) given to the division for purposes consistent with this section; and

(ii) deposited into the account at the request of:

(A) the division; or

(B) the person giving the money.

(4) Money in the account may only be expended for:

(a) the purchase of aircraft and helicopters for use by the Aero Bureau in search and rescue operations;

(b) replacement, maintenance, and upgrade of search and rescue equipment;

(c) search and rescue training and certification for division officers and employees;

(d) personnel and fuel costs of the Aero Bureau associated with providing search and rescue services; and

(e) any other equipment or expenses necessary or appropriate for conducting search and rescue activities.

Enacted by Chapter 71, 2012 General Session

**53-9-101. Title.**

This chapter is known as the "Private Investigator Regulation Act."

Enacted by Chapter 314, 1995 General Session

**53-9-102. Definitions.**

In this chapter, unless otherwise stated:

(1) "Adequate records" means records containing, at a minimum, sufficient information to identify the client, the dates of service, the fee for service, the payments for service, the type of service given, and copies of any reports that may have been made.

(2) "Advertising" means the submission of bids, contracting or making known by any public notice, publication, or solicitation of business, directly or indirectly, that services regulated under this chapter are available for consideration.

(3) "Agency" means a person who holds an agency license pursuant to this chapter, and includes one who employs an individual for wages and salary, and withholds all legally required deductions and contributions, or contracts with a registrant or an apprentice on a part-time or case-by-case basis to conduct an investigation on behalf of the agency.

(4) "Applicant" means any person who has submitted a completed application and all required fees.

(5) "Apprentice" means a person who holds an apprentice license pursuant to this chapter, has not met the requirements for registration, and works under the direct supervision and guidance of an agency.

(6) "Board" means the Private Investigator Hearing and Licensure Board created in Section 53-9-104.

(7) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(8) "Commissioner" means the commissioner of the Department of Public Safety.

(9) "Conviction" means an adjudication of guilt by a federal, state, or local court resulting from trial or plea, including a plea of no contest, regardless of whether the imposition of sentence was suspended.

(10) "Department" means the Department of Public Safety.

(11) "Direct supervision" means that the agency or employer:

(a) is responsible for, and authorizes, the type and extent of work assigned;

(b) reviews and approves all work produced by the apprentice before it goes to the client;

(c) closely supervises and provides direction and guidance to the apprentice in the performance of his assigned work; and

(d) is immediately available to the apprentice for verbal contact, including by electronic means.

(12) "Emergency action" means a summary suspension of a license pending revocation, suspension, or probation in order to protect the public health, safety, or welfare.

(13) "Employee" means an individual who works for an agency or other employer, is listed on the agency's or employer's payroll records, and is under the agency's or employer's direction and control. An employee is not an independent contractor.

(14) "Identification card" means a card issued by the commissioner to a qualified applicant for an agency, registrant, or apprentice license.

(15) "Letter of concern" means an advisory letter to notify a licensee that while there is insufficient evidence to support probation, suspension, or revocation of a license, the department informs the licensee of the need to modify or eliminate certain practices and that continuation of the activities that led to the information being submitted to the department may result in further disciplinary action against the licensee.

(16) "Licensee" means a person to whom an agency, registrant, or apprentice license is issued by the department.

(17) (a) "Private investigator or private detective" means any person, except collection agencies and credit reporting agencies, who, for consideration, engages in business or accepts employment to conduct any investigation for the purpose of obtaining information with reference to:

(i) crime, wrongful acts, or threats against the United States or any state or territory of the United States;

(ii) the identity, reputation, character, habits, conduct, business occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movements, whereabouts, affiliations, associations, or transactions of any person or group of persons;

(iii) the credibility of witnesses or other persons;

(iv) the whereabouts of missing persons or owners of abandoned property;

(v) the causes and origin of, or responsibility for a fire, libel, slander, a loss, an accident, damage, or an injury to real or personal property;

(vi) the business of securing evidence to be used before investigating committees or boards of award or arbitration or in the trial of civil or criminal cases and the trial preparation;

(vii) the prevention, detection, and removal of installed devices for eavesdropping or observation;

(viii) the business of "skip tracing" persons who have become delinquent in their lawful debts, either when hired by an individual, collection agency, or through the direct purchase of the debt from a financial institution or entity owning the debt or judgment; or

(ix) serving civil process.

(b) "Private investigator or private detective" does not include:

(i) any person or employee conducting an investigation on the person's or employee's own behalf or on behalf of the employer if the employer is not a private investigator under this chapter;

(ii) an employee of an attorney licensed to practice law in this state; or

(iii) a currently licensed certified public accountant or CPA as defined in Section 58-26a-102.

(18) "Qualifying party" means the individual meeting the qualifications under this chapter for a private investigator license.

(19) "Registrant" means any person who holds a registrant license pursuant to this chapter. The registrant performs private investigative work either as an employee on an employer's payroll or, on a contract with an agency, part-time, or case-by-case basis, with a minimum amount of direction.

(20) "Restructuring" means any change in the legal status of a business.

(21) "Unprofessional conduct" means any of the following:

(a) engaging or offering to engage by fraud or misrepresentation in any activities regulated by this chapter;

(b) aiding or abetting a person who is not licensed pursuant to this chapter in representing that person as a private investigator or registrant in this state;

(c) gross negligence in the practice of a private investigator or registrant;

(d) failing or refusing to maintain adequate records and investigative findings on a subject of investigation or a client;

(e) committing a felony or a misdemeanor involving any crime that is grounds for denial, suspension, or revocation of an agency, registrant, or apprentice license. In all cases, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission of the crime; or

(f) making a fraudulent or untrue statement to the bureau, board, department, or its investigators, staff, or consultants.

Amended by Chapter 432, 2011 General Session

**53-9-103. Commissioner of Public Safety to administer -- Bureau to issue licenses -- Records -- Bonds -- Rulemaking.**

(1) The commissioner shall administer this chapter.

(2) (a) The bureau, acting at the direction of the commissioner, shall issue a private investigator license to an applicant whom the board finds meets the qualifications for licensure under this chapter.

(b) The bureau shall issue a license to an apprentice applicant who meets the qualifications for licensure under this chapter within five business days of receipt of the application.

(c) The bureau shall notify each licensee under this chapter when a licensee's license is due for renewal in accordance with procedures established by rule.

(3) (a) The bureau shall keep records of:

(i) all applications for licenses under this chapter; and

(ii) all bonds and proof of certificates of liability and workers' compensation insurance required to be filed.

(b) The records shall include statements as to whether a license or renewal license has been issued for each application.

(4) If a license is revoked, suspended, canceled, or denied or if a licensee is placed on probation, the date of filing the order for revocation, suspension, cancellation, denial, or probation shall be included in the records.

(5) The bureau shall maintain:

(a) a list of all licensees whose license has been revoked, suspended, placed on probation, or canceled; and

(b) a written record of complaints filed against licensees.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may make rules governing the administration of the provisions of this chapter.

Amended by Chapter 378, 2014 General Session

**53-9-104. Board -- Creation-- Qualifications -- Appointments -- Terms -- Immunity.**

(1) There is established a Private Investigator Hearing and Licensure Board consisting of five members appointed by the commissioner.

(2) Each member of the board shall be a citizen of the United States and a resident of this state at the time of appointment.

(a) Two members shall be qualifying parties who are licensed as provided in this chapter.

(b) One member shall be a supervisory investigator from the commissioner's office.

(c) One member shall be a chief of police or sheriff.

(d) One member shall be a public member who shall not have a financial interest in a private investigative agency and shall not have an immediate family member or a household member or friend who is licensed or registered under this chapter.

(3) (a) Each member of the board shall serve four-year staggered terms beginning and ending on January 1.

(b) Notwithstanding the term requirements of Subsection (3)(a), the commissioner may adjust the length of terms to ensure the terms of board members are staggered so that approximately one member of the board is appointed every year.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) At its first meeting every year, the board shall elect a chair, vice chair, and secretary from its membership.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) A member shall not serve more than one term, except that a member appointed to fill a vacancy or appointed for an initial term of less than four years may be reappointed for one full term.

(8) The commissioner, after a board hearing and recommendation, may remove any member of the board for misconduct, incompetency, or neglect of duty.

(9) Members of the board are immune from suit with respect to all acts done and actions taken in good faith in furtherance of the purposes of this chapter.

Amended by Chapter 286, 2010 General Session

**53-9-105. Powers and duties of the board.**

(1) The board shall:

(a) review applications for licenses and renewals of licenses for private investigators and approve or deny the applications;

(b) upon receiving a timely filed petition, review within a reasonable time the denial, suspension, or revocation of a private investigator license; and

(c) review all complaints and make recommendations to the commissioner regarding disciplinary action.

(2) The board may take and hear evidence, administer oaths and affirmations, and compel by subpoena the attendance of witnesses and the production of books, papers, records, documents, and other information relating to a formal complaint against or bureau investigation of a private investigator.

Amended by Chapter 432, 2011 General Session

**53-9-106. Meetings -- Hearings.**

(1) The board shall meet quarterly, unless the board has no business to conduct during that quarter, and shall also meet at the call of the chair.

(2) A quorum consists of three members.

(3) If a member has three unexcused absences within a 12-month period, the board may hold a hearing to determine if that board member should be released from board duties.

Amended by Chapter 330, 2003 General Session

**53-9-107. Classification of licenses -- License required to act.**

(1) Every person applying for a license under this chapter shall indicate on the application which of the following licenses the applicant is applying for:

(a) an agency license shall be issued to an applicant who meets the agency requirements of Sections 53-9-108 and 53-9-109;

(b) a registrant license shall be issued to an applicant who meets the registrant requirements of Sections 53-9-108 and 53-9-110; or

(c) an apprentice license shall be issued to an applicant who meets the apprentice requirements of Sections 53-9-108 and 53-9-110.

(2) Unless licensed under this chapter, a person may not:

(a) act or assume to act as, or represent himself to be:

(i) a licensee; or

(ii) a private investigator or private detective as defined in Subsection 53-9-102(16) or conduct any investigation as provided in Subsection 53-9-102(16); or

(b) falsely represent to be employed by or for an independent contractor for an agency.

(3) A licensed registrant, as defined in Section 53-9-102, may only work as an employee of, or as an independent contractor for, an agency licensed under this chapter, and may not:

(a) advertise the licensed registrant's services or conduct investigations for the general public; or

(b) employ other private investigators or hire them as independent contractors.

(4) (a) A licensed apprentice, as defined in Section 53-9-102, may only work under the direct supervision and guidance of an agency licensed under this chapter, and may not:

(i) advertise the licensed apprentice's services or conduct investigations for the general public;

(ii) employ other private investigators; or

(iii) obtain information from the Utah State Tax Commission Motor Vehicle Division or Driver License Division within the Department of Public Safety, except the apprentice may utilize information from these agencies for a legitimate business need and under the direct supervision and guidance of a licensed agency.

(b) A registrant or apprentice whose license has been suspended or revoked shall immediately notify the agency which supervises the registrant or apprentice of the action.

Amended by Chapter 432, 2011 General Session

**53-9-108. Qualifications for licensure.**

(1) (a) An applicant under this chapter shall be at least 21 years of age and a legal resident of this state.

(b) An applicant may not have been:

(i) convicted of a felony;

(ii) convicted of an act involving illegally using, carrying, or possessing a dangerous weapon;

(iii) convicted of an act of personal violence or force on any person or convicted of threatening to commit an act of personal violence or force against another person;

(iv) convicted of an act constituting dishonesty or fraud;

(v) convicted of an act involving moral turpitude;

(vi) placed on probation or parole;

(vii) named in an outstanding arrest warrant; or

(viii) convicted of illegally obtaining or disclosing private, controlled, or protected records as provided in Section 63G-2-801.

(c) If previously or currently licensed in another state or jurisdiction, the applicant shall be in good standing within that state or jurisdiction.

(2) In assessing if an applicant meets the requirements under Subsection (1)(b), the board shall consider mitigating circumstances presented by an applicant.

(3) (a) An applicant for an agency license shall have:

(i) a minimum of 10,000 hours of investigative experience that consists of actual work performed as a licensed private investigator, an investigator in the private sector, an investigator for the federal government, or an investigator for a state, county, or municipal government; or

(ii) if the applicant held a registrant license or an apprentice license under this chapter on or before May 1, 2010, a minimum of 2,000 hours of investigative experience that consists of actual work performed as a licensed private investigator, an investigator in the private sector, an investigator for the federal government, or an investigator for a state, county, or municipal government.

(b) An applicant for a registrant license shall have a minimum of 2,000 hours of investigative experience that consists of actual investigative work performed as a licensed private investigator, an investigator in the private sector, an investigator for the federal government, an investigator for a state, county, or municipal government, or a process server.

(c) At least 2,000 hours of the investigative experience required under this

Subsection (3) shall have been performed within 10 years immediately prior to the application.

(d) An applicant shall substantiate investigative work experience required under this Subsection (3) by providing:

(i) the exact details as to the character and nature of the investigative work on a form prescribed by the bureau and certified by the applicant's employers; or

(ii) if the applicant is applying for the reinstatement of an agency license, internal records of the applicant that demonstrate the investigative work experience requirement has previously been met.

(e) (i) The applicant shall prove completion of the investigative experience required under this Subsection (3) to the satisfaction of the board and the board may independently verify the certification offered on behalf of the applicant.

(ii) The board may independently confirm the claimed investigative experience and the verification of the applicant's employers.

(4) An applicant for an apprentice license, lacking the investigative experience required for a registrant license, shall meet all of the qualification standards in Subsection (1), and shall complete an apprentice application.

(5) An applicant for an agency or registrant license may receive credit toward the hours of investigative experience required under Subsection (3) as follows:

(a) an applicant may receive credit for 2,000 hours of investigative experience if the applicant:

(i) has an associate's degree in criminal justice or police science from an accredited college or university; or

(ii) is certified as a peace officer; and

(b) an applicant may receive credit for 4,000 hours of investigative experience if the applicant has a bachelor's degree in criminal justice or police science from an accredited college or university.

(6) The board shall determine if the applicant may receive credit under Subsection (5) toward the investigative and educational experience requirements under Subsection (3).

(7) An applicant for the renewal of a license under this chapter shall be a legal resident of this state.

Amended by Chapter 378, 2014 General Session

**53-9-109. Application for agency license -- Liability insurance -- Workers' compensation.**

(1) Every application for an agency license to engage in the private investigative business shall provide to the bureau:

(a) the full name and business address of the applicant;

(b) one passport-size color photograph of the applicant;

(c) the name under which the applicant intends to do business;

(d) a statement that the applicant intends to engage in the private investigative business;

(e) a verified statement of the applicant's experience and qualifications as provided in Section 53-9-108; and

(f) the fee prescribed in Section 53-9-111.

(2) Before the issuance or renewal of an agency license, the applicant shall provide to the bureau:

(a) a certificate of liability insurance; and

(b) a certificate of workers' compensation insurance, if applicable.

(3) The liability insurance required by this section shall:

(a) protect against liability to third persons;

(b) contain a limit of liability in an amount of not less than $500,000;

(c) be continuous in form and run concurrently with the license period; and

(d) provide for notice to the bureau in the event of cancellation of the liability insurance.

(4) (a) The bureau shall cancel a license when it receives notice from the insurer that liability insurance required under Subsection (2) has expired or been canceled.

(b) The licensee shall be notified by the bureau when a license has been cancelled under this Subsection (4).

(c) The license may be reinstated when the licensee:

(i) files proof of liability insurance for the remainder of the license period; and

(ii) pays the reinstatement fee prescribed in Section 53-9-111.

Amended by Chapter 432, 2011 General Session

**53-9-110. Application for registrant or apprentice license.**

(1) Every application for a registrant or apprentice license shall provide to the bureau:

(a) the full name and address of the applicant;

(b) one passport-size color photograph of the applicant;

(c) the name of the licensed agency for which the applicant will be an employee, apprentice, or contract registrant, if applicable;

(d) authorization of the licensed agency or its designee to employ the apprentice or contract with the registrant, if applicable;

(e) a verified statement of the applicant's experience and qualifications as provided in Section 53-9-108; and

(f) the fee prescribed in Section 53-9-111.

(2) An application for a registrant or apprentice license or renewal shall be accompanied by a surety bond in the amount of $10,000.

(3) The surety bond required by this section shall:

(a) protect against liability to third persons;

(b) be continuous in form and run concurrently with the license period; and

(c) provide for notice to the bureau in the event of cancellation of the surety bond.

(4) (a) The bureau shall cancel a license when it receives notice from the insurer that the bond required in Subsection (2) has expired or been canceled.

(b) The licensee shall be notified by the bureau when a license has been cancelled under this Subsection (4).

(c) The license may be reinstated when the licensee:

(i) files proof of a bond for the remainder of the license period; and

(ii) pays the reinstatement fee prescribed in Section 53-9-111.

Amended by Chapter 432, 2011 General Session

**53-9-111. License and registration fees -- Deposit in General Fund.**

(1) Fees for licensure and renewal are as follows:

(a) for an original agency license application and license, $215, plus an additional fee for the costs of fingerprint processing and background investigation;

(b) for the renewal of an agency license, $115;

(c) for an original registrant or apprentice license application and license, $115, plus an additional fee for the costs of fingerprint processing and background investigation;

(d) for the renewal of a registrant or apprentice license, $65;

(e) for filing an agency renewal application more than 30 days after the expiration date of the license, a delinquency fee of $65;

(f) for filing a registrant or apprentice renewal application more than 30 days after the expiration date of the registration, a delinquency fee of $45;

(g) for the reinstatement of any license, $65;

(h) for a duplicate identification card, $25; and

(i) for the fingerprint processing fee, an amount that does not exceed the cost to the bureau charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information.

(2) (a) The bureau may renew a license granted under this chapter:

(i) to a resident of the state;

(ii) upon receipt of a renewal application on forms as prescribed by the bureau; and

(iii) upon receipt of the fees prescribed in Subsection (1).

(b) (i) The renewal of a license requires the filing of all certificates of insurance or proof of surety bond as required by this chapter.

(ii) Renewal of a license may not be granted more than 180 days after expiration.

(c) A licensee may not engage in activity subject to this chapter during the period between the date of expiration of the license and the renewal of the license.

(3) (a) The bureau shall renew a suspended license if:

(i) the period of suspension has been completed;

(ii) the bureau has received a renewal application from the applicant on forms prescribed by the bureau; and

(iii) the applicant has:

(A) filed all certificates of insurance or proof of surety bond as required by this chapter; and

(B) paid the fees required by this section for renewal, including a delinquency fee if the application is not received by the bureau within 30 days of the termination of the suspension.

(b) Renewal of the license does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in activity regulated by this chapter, or in other activity or conduct in violation of the order or judgment by which the

license was suspended.

(4) The bureau may not reinstate a revoked license or accept an application for a license from a person whose license has been revoked for at least one year from the date of revocation.

(5) All fees, except the fingerprint processing fee, collected by the bureau under this section shall be deposited in the General Fund.

Amended by Chapter 378, 2014 General Session

**53-9-112. Issuance of license and identification card to applicant -- License period -- Expiration of application -- Transfer of license prohibited.**

(1) The commissioner shall issue a license to an applicant who complies with the provisions of this chapter. Each license issued under this chapter shall:

(a) contain the name and address of the licensee and the number of the license, its agency, registrant, or apprentice license designation; and

(b) be issued for a period of two years.

(2) On the issuance of a license, an identification card shall:

(a) be issued without charge to the licensee; and

(b) state on its face whether the bearer holds an agency, registrant, or apprentice license.

(3) (a) A registrant identification card shall state that the licensee is under the direction of a licensed agency and may not do investigative work independently for the public.

(b) An apprentice identification card shall state that the licensee is under the direct supervision of a licensed agency and may not do investigative work independently for the public.

(4) Upon request by any person, the licensee shall immediately identify the name, business address, and phone number of the licensed agency for which the licensee is an employee or independent contractor.

(5) (a) On notification by the commissioner to an applicant that the license is not complete, or is not ready for issuance pending additional information, the applicant shall complete the application process and provide the additional information within 90 days.

(b) Failure to complete the process shall result in the application being cancelled and all fees forfeited.

(c) Subsequent application by the same applicant requires the payment of all application and license fees prescribed in Section 53-9-111.

(6) A licensee shall notify the commissioner of any change in the name or address of his business within 60 days of the change and failure to so notify will result in the automatic suspension of the license. To relieve the suspension, the licensee must apply for reinstatement and pay the fee prescribed in Section 53-9-111.

(7) A license issued under this chapter is not transferable or assignable.

Amended by Chapter 212, 1998 General Session

**53-9-113. Grounds for denial of a license -- Appeal.**

(1) The board may deny a license or the renewal of a license if the applicant

has:

(a) committed an act that, if committed by a licensee, would be grounds for probation, suspension, or revocation of a license under this chapter;

(b) employed or contracted with a person who has been refused a license under this chapter or who has had a license revoked;

(c) while not licensed under this chapter, committed, or aided and abetted the commission of, any act for which a license is required by this chapter; or

(d) knowingly made a material misstatement in connection with an application for a license or renewal of a license.

(2) (a) The board's denial of a license under this chapter shall:

(i) be in writing;

(ii) describe the basis for the denial; and

(iii) inform the applicant that if the applicant desires a hearing to contest the denial, the applicant shall submit a request in writing to the board within 30 days after the denial has been sent by certified mail to the applicant.

(b) The board shall schedule a hearing on the denial for the next board meeting after the applicant's request for a hearing has been received by the board.

(3) The decision of the board may be appealed to the commissioner, who may:

(a) return the case to the board for reconsideration;

(b) modify the board's decision; or

(c) reverse the board's decision.

(4) The commissioner shall promptly issue a final order and send the order by mail to the applicant.

(5) Decisions of the commissioner are subject to judicial review pursuant to Section 63G-4-402.

Amended by Chapter 432, 2011 General Session

**53-9-115. Business name and address -- Posting of license -- Advertising.**

(1)(a) Subject to the provisions of this chapter, a licensee may conduct an investigative business under a name other than the licensee's by:

(i) complying with the requirements of Title 42, Chapter 2, Conducting Business Under Assumed Name; and

(ii) providing a copy of the filed certificate to the commissioner.

(b) Failure to comply with Subsection (1)(a) shall result in the suspension of the license.

(2) Each licensee shall have at least one physical location from which the normal business of the agency is conducted. The address of this location shall be on file with the commissioner at all times and is not a public record pursuant to Subsection 63G-2-301(2)(b)(ii).

(3) The license certificate issued by the commissioner shall be posted in a conspicuous place in the principal office of the licensee.

(4) Subject to the provisions of this chapter, a licensee may solicit business through any accepted form of advertising.

(a) Any advertisement shall contain the licensee's name and license number as it appears on the license certificate.

(b) A licensee may not use false, deceptive, or misleading advertising.

Amended by Chapter 382, 2008 General Session

**53-9-116. Divulging investigative information -- False reports prohibited.**

(1) Except as otherwise provided by this chapter, a licensee may not divulge or release to anyone other than his client or employer the contents of an investigative file acquired in the course of licensed investigative activity. However, the board shall have access to investigative files if the client for whom the information was acquired, or his lawful representative, alleges a violation of this chapter by the licensee or if the prior written consent of the client to divulge or release the information has been obtained.

(2) A licensee may not willfully make a false statement or report to a client, employer, the board, or any authorized representative of the department, concerning information acquired in the course of activities regulated by this chapter.

(3) The licensee shall submit investigative reports to a client at times and in the manner agreed upon between the licensee and the client.

(4) Upon demand by the client, the licensee shall divulge to the client the results of an investigation if payment in full has been tendered for the charges levied.

(5) The licensee has full right to withdraw from any case and refund any portion of a retainer for which investigative work has not been completed.

Amended by Chapter 212, 1998 General Session

**53-9-117. Authority to investigate complaint -- Filing of complaints -- Response -- Retention of records -- Appeal -- Penalties collected.**

(1) The bureau or board may initiate an investigation of any person advertising services or engaged in performing services that require a license under this chapter and shall investigate if a licensee is engaged in activities that do not comply with or are prohibited by this chapter.

(2) The bureau shall enforce the provisions of this chapter without regard to the place or location in which a violation may have occurred, and on the complaint of any person, may investigate any alleged violation of this chapter or the business and business methods of any licensee or applicant for licensure under this chapter.

(3) Complaints against any licensee shall be filed with the bureau in writing on forms prescribed by the bureau.

(a) Upon receipt of a complaint, or at the request of the board, the bureau shall assign the complaint to an investigator within the bureau.

(b) The bureau will provide a copy of the complaint to the licensee who shall answer the complaint in writing within 15 working days of the date the complaint is sent to the licensee by certified mail.

(4) In any investigation undertaken by the bureau, each licensee on request shall provide records and truthfully respond to questions concerning activities regulated under this chapter.

(a) These records shall be maintained for five years at the principal place of business of the licensee or at another location approved by the board for a person whose license has been terminated, canceled, or revoked.

(b) On request by the bureau the licensee shall:

(i) during normal business hours or other time acceptable to the parties, make its records available immediately to the bureau unless the bureau determines that an extension may be granted; and

(ii) provide copies of any business records requested by the bureau.

(5) Upon completion of the investigation, the bureau shall report its findings of fact to the board, and shall make a recommendation as to whether disciplinary action is warranted under Section 53-9-118, including whether emergency action should be taken under Subsection (8).

(6) (a) If the bureau recommends disciplinary action, a notice of the recommendations in Subsection (5) shall be sent by the bureau to the licensee by certified mail.

(b) The notice shall include the date and time of the meeting where the board will consider the bureau's recommendation.

(c) The board shall give the licensee an opportunity at the meeting to present testimony and evidence in response to the bureau's recommendation.

(7) If the board finds, based on the investigation or hearing, that a violation of Section 53-9-118 has occurred, notice of the board's decision shall be sent to the licensee at the licensee's most recent address in the bureau's files by certified mail, return receipt requested.

(8) Based on information the board receives from the investigation or during a hearing, the board may:

(a) dismiss the complaint if the board finds it is without merit;

(b) take emergency action;

(c) issue a letter of concern, if applicable;

(d) impose a civil penalty not to exceed $500;

(e) place the license on suspension for a period of not more than 12 months;

(f) revoke the license; and

(g) place all records, evidence findings, and conclusion, and any other information pertinent to the investigation, in a confidential and protected records section of the licensee's file maintained at the bureau.

(9) A letter of concern issued for a violation of Section 53-9-118 is a document that is retained by the bureau and may be used in future disciplinary actions against a licensee.

(10) (a) Appeal of the board's decision shall be made in writing to the commissioner within 15 days from the date the board's decision is mailed to the licensee.

(b) The commissioner shall review the board's finding and may affirm, return to the board for reconsideration, reverse, adopt, modify, supplement, amend, or reject the recommendation of the board.

(11) (a) The commissioner shall issue a final written order within 30 days outlining the decision on appeal.

(b) The final order is final agency action for purposes of judicial review under Section 63G-4-402.

(12) (a) If the board finds, based on the bureau's investigation, that the public health, safety, or welfare requires emergency action, the board may order a summary

suspension of a license pending proceedings for revocation or other action.

(b) If the board issues a summary suspension order, the board shall issue to the licensee a written notice of the order and indicate the licensee's right to request a formal hearing before the board. The notice shall be mailed to the licensee by certified mail, return receipt requested.

(c) The licensee's request for a formal hearing shall be in writing and mailed to the bureau within 30 working days of the date the summary suspension was mailed to the licensee.

(13) All penalties collected under this section shall be deposited in the General Fund.

Amended by Chapter 432, 2011 General Session

**53-9-118. Grounds for disciplinary action.**

The board may suspend or revoke a license or registration or deny an application for a license if a person engages in:

(1) fraud or willful misrepresentation in applying for an original license or renewal of an existing license;

(2) using any letterhead, advertising, or other printed matter in any manner representing that the licensee is an instrumentality of the federal government, a state, or any political subdivision of a state;

(3) using a name different from that under which the licensee is currently licensed for any advertising, solicitation, or contract to secure business unless the name is an authorized fictitious name;

(4) impersonating, permitting, or aiding and abetting an employee or independent contractor to impersonate a peace officer or employee of the United States, any state, or a political subdivision of a state;

(5) knowingly violating, advising, encouraging, or assisting the violation of any statute, court order, or injunction in the course of a business regulated under this chapter;

(6) falsifying fingerprints or photographs while operating under this chapter;

(7) conviction of a felony;

(8) conviction of any act involving illegally using, carrying, or possessing a dangerous weapon;

(9) conviction of any act involving moral turpitude;

(10) conviction of any act of personal violence or force against any person or conviction of threatening to commit any act of personal violence or force against any person;

(11) soliciting business for an attorney in return for compensation;

(12) conviction of any act constituting dishonesty or fraud;

(13) being placed on probation, parole, or named in an outstanding arrest warrant;

(14) committing or permitting any employee or independent contractor to commit any act during the period when the license is expired or suspended;

(15) willfully neglecting to render to a client services or a report as agreed between the parties and for which compensation has been paid or tendered in

accordance with the agreement of the parties unless the licensee chooses to withdraw from the case and returns the funds for work not yet completed;

(16) the unauthorized release of information acquired on behalf of a client by a licensee, or its employee or contract agent as a result of activities regulated under this chapter;

(17) failing to cooperate with, misrepresenting to, or refusing access to business or investigative records requested by the board or an authorized representative of the bureau engaged in an official investigation pursuant to this chapter;

(18) employing or contracting with any unlicensed or improperly licensed person or agency to conduct activities regulated under this chapter if the licensure status was known or could have been ascertained by reasonable inquiry;

(19) permitting, authorizing, aiding, or in any way assisting an employee to conduct services as described in this chapter on an independent contractor basis and not under the authority of the licensed agency;

(20) failure to maintain in full force and effect liability or workers' compensation insurance, or a surety bond, if applicable;

(21) conducting private investigation services regulated by this chapter on a revoked or suspended license;

(22) accepting employment, contracting, or in any way engaging in employment that has an adverse impact on investigations being conducted on behalf of clients;

(23) advertising in a false, deceptive, or misleading manner;

(24) refusing to display the identification card issued by the bureau to any person having reasonable cause to verify the validity of the license;

(25) committing any act of unprofessional conduct;

(26) conviction of any act of illegally obtaining or disseminating private, controlled, or protected records under Section 63G-2-801; or

(27) any other conduct prohibited by this chapter.

Amended by Chapter 432, 2011 General Session

**53-9-119. Violation -- Penalty.**

Any person who violates any provision of this chapter is guilty of a class A misdemeanor.

Amended by Chapter 212, 1998 General Session

**53-9-121. Limited-use license.**

(1) As used in this section:

(a) "Legislative body" means:

(i) the Legislature;

(ii) the Utah House of Representatives;

(iii) the Utah Senate;

(iv) a special investigative committee; or

(v) a staff office of the Legislature.

(b) "Special investigative committee" is as defined in Subsection 36-12-9(1).

(2) Notwithstanding any provision of this chapter, a person is qualified to receive

a limited-use license if the person:

(a) is licensed, in good standing, by another state, district, or territory of the United States to provide the services of a private investigator or private detective; and

(b) is retained by a legislative body to provide the services of a private investigator or private detective for:

(i) a special investigative committee; or

(ii) a purpose relating to impeachment.

(3) A person holding a limited-use license may only provide the services described in Subsection (2)(b).

(4) The bureau shall issue a limited-use license to a person within five days after the day on which the bureau receives notice from a legislative body that:

(a) the person meets the qualifications described in Subsection (2)(a); and

(b) the legislative body has retained the person to provide the services described in Subsection (2)(b).

(5) The bureau may not:

(a) impose a qualification for the receipt of a limited-use license other than the qualifications described in Subsection (2)(a); or

(b) charge a fee to issue a limited-use license.

(6) A limited-use license expires when the person to whom it is issued is no longer retained by a legislative body to provide a service described in Subsection (2)(b).

Enacted by Chapter 3, 2013 Special Session 1

**53-10-101. Short title.**

This chapter is known as the "Criminal Investigations and Technical Services Act."

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-102. Definitions.**

As used in this chapter:

(1) "Administration of criminal justice" means performance of any of the following: detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.

(2) "Alcoholic beverage" is as defined in Section 32B-1-102.

(3) "Alcoholic product" is as defined in Section 32B-1-102.

(4) "Commission" means the Alcoholic Beverage Control Commission.

(5) "Communications services" means the technology of reception, relay, and transmission of information required by public safety agencies in the performance of their duty.

(6) "Conviction record" means criminal history information indicating a record of a criminal charge which has led to a declaration of guilt of an offense.

(7) "Criminal history record information" means information on individuals consisting of identifiable descriptions and notations of:

(a) arrests, detentions, indictments, informations, or other formal criminal

charges, and any disposition arising from any of them; and

(b) sentencing, correctional supervision, and release.

(8) "Criminalist" means the scientific discipline directed to the recognition, identification, individualization, and evaluation of physical evidence by application of the natural sciences in law-science matters.

(9) "Criminal justice agency" means courts or a government agency or subdivision of a government agency that administers criminal justice under a statute, executive order, or local ordinance and that allocates greater than 50% of its annual budget to the administration of criminal justice.

(10) "Department" means the Department of Public Safety.

(11) "Director" means the division director appointed under Section 53-10-103.

(12) "Division" means the Criminal Investigations and Technical Services Division created in Section 53-10-103.

(13) "Executive order" means an order of the president of the United States or the chief executive of a state that has the force of law and that is published in a manner permitting regular public access to it.

(14) "Forensic" means dealing with the application of scientific knowledge relating to criminal evidence.

(15) "Missing child" means any person under the age of 18 years who is missing from the person's home environment or a temporary placement facility for any reason and whose location cannot be determined by the person responsible for the child's care.

(16) "Missing person" is as defined in Section 26-2-27.

(17) "Pathogens" means disease-causing agents.

(18) "Physical evidence" means something submitted to the bureau to determine the truth of a matter using scientific methods of analysis.

(19) "Qualifying entity" means a business, organization, or a governmental entity that employs persons or utilizes volunteers who deal with:

(a) national security interests;

(b) care, custody, or control of children;

(c) fiduciary trust over money;

(d) health care to children or vulnerable adults; or

(e) the provision of any of the following to a vulnerable adult:

(i) care;

(ii) protection;

(iii) food, shelter, or clothing;

(iv) assistance with the activities of daily living; or

(v) assistance with financial resource management.

Amended by Chapter 276, 2010 General Session

**53-10-103. Division -- Creation -- Director appointment and qualifications.**

(1) There is created within the department the Criminal Investigations and Technical Services Division.

(2) The division shall be administered by a director appointed by the commissioner with the approval of the governor.

(3) The director is the executive and administrative head of the division and shall be experienced in administration and possess additional qualifications as determined by the commissioner and as provided by law.

(4) The director acts under the supervision and control of the commissioner and may be removed from his position at the will of the commissioner.

(5) The director shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-104. Division duties.**

The division shall:

(1) provide and coordinate the delivery of support services to law enforcement agencies;

(2) maintain and provide access to criminal records for use by law enforcement agencies;

(3) publish law enforcement and statistical data;

(4) maintain dispatch and communications services for public safety communications centers and provide emergency medical, fire suppression, highway maintenance, public works, and law enforcement communications for municipal, county, state, and federal agencies;

(5) analyze evidence from crime scenes and crime-related incidents for criminal prosecution;

(6) provide criminalistic laboratory services to federal, state, and local law enforcement agencies, prosecuting attorneys' and agencies, and public defenders, with the exception of those services provided by the state medical examiner in accordance with Title 26, Chapter 4, Utah Medical Examiner Act;

(7) establish satellite laboratories as necessary to provide criminalistic services;

(8) safeguard the public through licensing and regulation of activities that impact public safety, including concealed weapons, emergency vehicles, and private investigators;

(9) provide investigative assistance to law enforcement and other government agencies;

(10) collect and provide intelligence information to criminal justice agencies;

(11) investigate crimes that jeopardize the safety of the citizens, as well as the interests, of the state;

(12) regulate and investigate laws pertaining to the sale and distribution of liquor;

(13) make rules to implement this chapter;

(14) perform the functions specified in this chapter;

(15) comply with the requirements of Section 11-40-103; and

(16) comply with the requirements of Sections 72-10-602 and 72-10-603.

Amended by Chapter 137, 2006 General Session

**53-10-104.5. Wireless service -- Call location in emergencies.**

(1) As used in this section:

(a) "Call location information" means the best available location information, including information obtained by use of historical cellular site information or a mobile locator tool.

(b) "Law enforcement agency" or "agency" has the same definition as in Section 53-1-102.

(c) "Mobile telecommunications service" has the same definition as in Section 54-8b-2.

(d) "Telecommunication device" has the same definition as in Section 76-6-409.5.

(2) A mobile telecommunications service shall provide call location information regarding a telecommunication device user whom a law enforcement agency has reason to believe is in need of services under Subsection (2)(a) or (b), upon the request of a law enforcement agency or a public safety communications center if the agency or center determines the location information is necessary in order to respond to:

(a) a call for emergency response services; or

(b) an emergency situation that involves the imminent risk of death or serious bodily injury as defined in Section 76-1-601.

(3) The mobile telecommunications service may establish procedures for its voluntary response to a request for location under Subsection (2).

(4) A mobile telecommunications service that, acting in good faith, provides information as requested under Subsection (2) may not be held civilly liable for providing the information.

(5) (a) The division shall obtain contact information from all mobile telecommunication service providers that provide services in this state to facilitate communicating location requests under Subsection (2).

(b) The division shall provide the contact information to all public safety communications centers in the state and shall provide updates to the contact information.

Enacted by Chapter 185, 2013 General Session

**53-10-105. Assistance to law enforcement agencies -- Investigation of crimes -- Laboratory facilities.**

(1) The commissioner may assist any law enforcement agency in:

(a) establishing identification and investigation records systems;

(b) establishing uniform crime reporting systems;

(c) investigating any crime;

(d) coordinating the exchange of criminal identification, intelligence, and investigation information among law enforcement agencies; and

(e) providing the agencies with equipment, technical assistance, and instruction.

(2) (a) At the governor's direction, the commissioner shall assign division employees to investigate any crime within this state for the purpose of identifying, apprehending, and convicting the perpetrator or perpetrators of that crime even if the commissioner has not received a request from a law enforcement agency.

(b) The governor may establish a time period for the commissioner to pursue the

investigation.

(c) To accomplish the purposes of this section, the commissioner may provide, through the division, crime detection laboratory facilities.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-106. Cooperation with agencies of any state or nation.**

The division shall cooperate with appropriate agencies of any state or nation in developing uniform systems of criminal identification, crime reporting, and information exchange.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-107. Admissibility in evidence of certified copies of division files.**

A copy of any fingerprint, record, document, or other evidence in the files of the division, certified by the commissioner to be a true copy of the original, is admissible in evidence in the same manner as the original.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-108. Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.**

(1) Dissemination of information from a criminal history record or warrant of arrest information from division files is limited to:

(a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;

(b) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

(c) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

(d) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice; and

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(e) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(f) (i) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and

(ii) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

(g) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity;

and

(h) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

(2) An agreement under Subsection (1)(f) or (1)(h) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

(3) (a) Before requesting information under Subsection (1)(g), a qualifying entity must obtain a signed waiver from the person whose information is requested.

(b) The waiver must notify the signee:

(i) that a criminal history background check will be conducted;

(ii) who will see the information; and

(iii) how the information will be used.

(c) Information received by a qualifying entity under Subsection (1)(g) may only be:

(i) available to persons involved in the hiring or background investigation of the employee; and

(ii) used for the purpose of assisting in making an employment or promotion decision.

(d) A person who disseminates or uses information obtained from the division under Subsection (1)(g) for purposes other than those specified under Subsection (3)(c), in addition to any penalties provided under this section, is subject to civil liability.

(e) A qualifying entity that obtains information under Subsection (1)(g) shall provide the employee or employment applicant an opportunity to:

(i) review the information received as provided under Subsection (8); and

(ii) respond to any information received.

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (3).

(g) (i) The applicant fingerprint card fee under Subsection (1)(g) is $20.

(ii) The name check fee under Subsection (1)(g) is $15.

(iii) These fees remain in effect until changed by the division through the process under Section 63J-1-504.

(iv) Funds generated under Subsections (3)(g)(i), (3)(g)(ii), and (8)(b) shall be deposited in the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(h) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsection (1)(g).

(4) (a) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except under Subsection (4)(b), (c), or (d).

(b) A criminal history provided to an agency pursuant to Subsection (1)(e) may be provided by the agency to the person who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection (1)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection 62A-5-103.5(7), provide a criminal history record to the state agency or the agency's designee.

(5) The division may not disseminate criminal history record information to qualifying entities under Subsection (1)(g) regarding employment background checks if the information is related to charges:

(a) that have been declined for prosecution;

(b) that have been dismissed; or

(c) regarding which a person has been acquitted.

(6) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so it cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(7) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.

(8) (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (8)(a) is $15. This fee remains in effect until changed by the commissioner through the process under Section 63J-1-504.

(c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

(9) The private security agencies as provided in Subsection (1)(f)(ii):

(a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(10) Before providing information requested under this section, the division shall give priority to criminal justice agencies needs.

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

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform

the commissioner and the director of the Utah Bureau of Criminal Identification of the unauthorized use.

Amended by Chapter 79, 2014 General Session
Amended by Chapter 377, 2014 General Session

**53-10-109. Telecommunications systems.**

For the purpose of expediting local, state, national, and international efforts in the detection and apprehension of criminals, the division may operate and coordinate telecommunications systems as may be required in the conduct of its duties under this part.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-110. Authority of officers and officials to take fingerprints, photographs, and other data.**

The officers and officials described in Sections 53-10-207 through 53-10-209 shall take, or cause to be taken, fingerprints, photographs, and other related data of persons under this part.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-111. Refusal to provide information -- False information -- Misdemeanor.**

It is a class B misdemeanor for a person to:

(1) neglect or refuse to provide, or willfully withhold any information under this part;

(2) willfully provide false information;

(3) willfully fail to do or perform any act required under this part;

(4) hinder or prevent another from doing an act required under this part; or

(5) willfully remove, destroy, alter, mutilate, or disclose the contents of any file or record created or maintained, or to which access is granted by the division unless authorized by and in compliance with procedures established by the division.

Amended by Chapter 243, 2011 General Session

**53-10-112. Director and officers to have peace officer powers.**

The director and enforcement officers:

(1) are vested with the powers of peace officers throughout the several counties of the state, with the exception of the power to serve civil process;

(2) have the powers and duties of inspectors under Title 32B, Alcoholic Beverage Control Act;

(3) may serve criminal process and arrest and prosecute violators of any law of this state; and

(4) have the same rights as other peace officers to require aid in executing their duties.

Amended by Chapter 276, 2010 General Session

**53-10-113. Other agencies to cooperate with division.**

(1) All agencies of the state and local governments shall cooperate with the division in discharging its responsibilities under:

(a) this chapter;

(b) Title 32B, Alcoholic Beverage Control Act;

(c) Title 58, Chapter 37, Utah Controlled Substance Act;

(d) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(e) Title 58, Chapter 37b, Imitation Controlled Substances Act; and

(f) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act.

(2) This part does not relieve local law enforcement agencies or officers of the responsibility of enforcing laws relating to alcoholic beverages and alcoholic products or any other laws.

(3) The powers and duties conferred upon the director and the officers of the division are not a limitation upon the powers and duties of other peace officers in the state.

Amended by Chapter 276, 2010 General Session

**53-10-114. Authority regarding drug precursors.**

(1) As used in this section, "acts" means:

(a) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; and

(b) Title 58, Chapter 37d, Clandestine Drug Lab Act.

(2) The division has authority to enforce the drug lab and precursor acts. To carry out this purpose, the division may:

(a) inspect, copy, and audit any records, inventories of controlled substance precursors, and reports required under the acts and rules adopted under the acts;

(b) enter the premises of regulated distributors and regulated purchasers during normal business hours to conduct administrative inspections;

(c) assist the law enforcement agencies of the state in enforcing the acts;

(d) conduct investigations to enforce the acts;

(e) present evidence obtained from investigations conducted in conjunction with appropriate county and district attorneys and the Office of the Attorney General for civil or criminal prosecution or for administrative action against a licensee; and

(f) work in cooperation with the Division of Occupational and Professional Licensing, created under Section 58-1-103, to accomplish the purposes of this section.

Enacted by Chapter 101, 1998 General Session

**53-10-201. Bureau of Criminal Identification -- Creation -- Bureau Chief appointment, qualifications, and compensation.**

(1) There is created within the division the Bureau of Criminal Identification.

(2) The bureau shall be administered by a bureau chief appointed by the division director with the approval of the commissioner.

(3) The bureau chief shall be experienced in administration and possess additional qualifications as determined by the commissioner or division director and as provided by law.

(4) The bureau chief acts under the supervision and control of the division director and may be removed from his position at the will of the commissioner.

(5) The bureau chief shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

Enacted by Chapter 263, 1998 General Session

**53-10-202. Criminal identification -- Duties of bureau.**

The bureau shall:

(1) procure and file information relating to identification and activities of persons who:

(a) are fugitives from justice;

(b) are wanted or missing;

(c) have been arrested for or convicted of a crime under the laws of any state or nation; and

(d) are believed to be involved in racketeering, organized crime, or a dangerous offense;

(2) establish a statewide uniform crime reporting system that shall include:

(a) statistics concerning general categories of criminal activities;

(b) statistics concerning crimes that exhibit evidence of prejudice based on race, religion, ancestry, national origin, ethnicity, or other categories that the division finds appropriate; and

(c) other statistics as required by the Federal Bureau of Investigation;

(3) make a complete and systematic record and index of the information obtained under this part;

(4) subject to the restrictions in this part, establish policy concerning the use and dissemination of data obtained under this part;

(5) publish an annual report concerning the extent, fluctuation, distribution, and nature of crime in Utah;

(6) establish a statewide central register for the identification and location of missing persons, which may include:

(a) identifying data including fingerprints of each missing person;

(b) identifying data of any missing person who is reported as missing to a law enforcement agency having jurisdiction;

(c) dates and circumstances of any persons requesting or receiving information from the register; and

(d) any other information, including blood types and photographs found necessary in furthering the purposes of this part;

(7) publish a quarterly directory of missing persons for distribution to persons or entities likely to be instrumental in the identification and location of missing persons;

(8) list the name of every missing person with the appropriate nationally maintained missing persons lists;

(9) establish and operate a 24-hour communication network for reports of

missing persons and reports of sightings of missing persons;

(10) coordinate with the National Center for Missing and Exploited Children and other agencies to facilitate the identification and location of missing persons and the identification of unidentified persons and bodies;

(11) receive information regarding missing persons, as provided in Sections 26-2-27 and 53A-11-502, and stolen vehicles, vessels, and outboard motors, as provided in Section 41-1a-1401;

(12) adopt systems of identification, including the fingerprint system, to be used by the division to facilitate law enforcement;

(13) assign a distinguishing number or mark of identification to any pistol or revolver, as provided in Section 76-10-520;

(14) check certain criminal records databases for information regarding motor vehicle salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons, and inform the Motor Vehicle Enforcement Division when new entries are made for certain criminal offenses for motor vehicle salespersons in accordance with the requirements of Section 41-3-205.5;

(15) check certain criminal records databases for information regarding driving privilege card applicants or cardholders and maintain a separate file of fingerprints for driving privilege applicants and cardholders and inform the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security or law enforcement agencies when new entries are made in accordance with the requirements of Section 53-3-205.5.

(16) review and approve or disapprove applications for license renewal that meet the requirements for renewal;

(17) forward to the board those applications for renewal under Subsection (16) that do not meet the requirements for renewal; and

(18) within funds appropriated by the Legislature for the purpose, implement and manage the operation of a firearm safety program, in conjunction with the state suicide prevention coordinator, as described in this section and Section 62A-15-1101, including:

(a) coordinating with the Department of Health, local mental health and substance abuse authorities, the State Office of Education suicide prevention coordinator, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce a firearm safety brochure with information about the safe handling and use of firearms that includes:

(A) rules for safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention and awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution pursuant to this section; and

(iii) produce a firearm safety packet that includes both the firearm safety brochure described in Subsection (18)(a)(i) and the cable-style gun lock described in Subsection (18)(a)(ii);

(b) distributing, free of charge, the firearm safety packet to the following

persons, who shall make the firearm safety packet available free of charge:
(i) health care providers, including emergency rooms;
(ii) mental health practitioners;
(iii) other public health suicide prevention organizations;
(iv) entities that teach firearm safety courses; and
(v) school districts for use in the seminar, described in Section 53A-15-1302, for parents of students in the school district;
(c) creating and administering a redeemable coupon program described in this section and Section 76-10-526, that may include:
(i) producing a redeemable coupon that offers between $10 and $200 off the purchase of a gun safe from a participating federally licensed firearms dealer, as defined in Section 76-10-501, by a Utah resident who has filed an application for a concealed firearm permit;
(ii) advertising the redeemable coupon program to all federally licensed firearms dealers and maintaining a list of dealers who wish to participate in the program;
(iii) printing or writing the name of a Utah resident who has filed an application for a concealed firearm permit on the redeemable coupon;
(iv) mailing the redeemable coupon and the firearm safety brochure to Utah residents who have filed an application for a concealed firearm permit; and
(v) collecting from the participating dealers receipts described in Section 76-10-526 and reimbursing the dealers;
(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:
(i) producing and distributing the firearm safety brochures and packets;
(ii) procuring the cable-style gun locks for distribution; and
(iii) administering the redeemable coupon program; and
(e) reporting to the Law Enforcement and Criminal Justice Interim Committee regarding implementation and success of the firearm safety program:
(i) during the 2016 interim, before November 1; and
(ii) during the 2018 interim, before June 1.

Amended by Chapter 226, 2014 General Session

**53-10-202.1. Firearm Safety Account.**
(1) There is created a restricted account within the General Fund known as the "Firearm Safety Account."
(2) The account shall be funded by appropriations from the Legislature.
(3) Funds in the account may only be used for the Firearm Safety Program established in Subsection 53-10-202(18).

Enacted by Chapter 226, 2014 General Session

**53-10-202.5. Bureau services -- Fees.**
The bureau shall collect fees for the following services:
(1) applicant fingerprint card as determined by Section 53-10-108;
(2) bail enforcement licensing as determined by Section 53-11-115;

(3) concealed firearm permit as determined by Section 53-5-707;
(4) application for and issuance of a certificate of eligibility for expungement as determined by Section 77-40-106;
(5) firearm purchase background check as determined by Section 76-10-526;
(6) name check as determined by Section 53-10-108;
(7) private investigator licensing as determined by Section 53-9-111; and
(8) right of access as determined by Section 53-10-108.

Amended by Chapter 58, 2010 General Session
Amended by Chapter 58, 2010 General Session, (Coordination Clause)
Amended by Chapter 283, 2010 General Session

**53-10-203. Missing persons -- Reports -- Notification.**

(1) Each law enforcement agency that is investigating the report of a missing person shall provide information regarding that report to the division. The report shall include descriptive information and the date and location of the last-known contact with the missing person.
(2) The division shall notify the state registrar of Vital Statistics and the FBI National Crime Information Center of all missing persons reported in accordance with Subsection (1) and shall provide the state registrar with information concerning the identity of those missing persons.
(3) If the division has reason to believe that a missing person reported in accordance with Subsection (1) has been enrolled in a specific school in this state, the division shall also notify the last-known school of that report.
(4) Upon learning of the recovery of a missing person, the division shall notify the state registrar and any school that it has previously informed of the person's disappearance.
(5) The division shall, by rule, determine the manner and form of reports, notices, and information required by this section.
(6) Upon notification by the state registrar or school personnel that a request for a birth certificate, school record, or other information concerning a missing person has been made, or that an investigation is needed in accordance with Section 53A-11-503, the division shall immediately notify the local law enforcement authority.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-204. Missing person records -- Confidentiality -- Availability.**

Inquiries made regarding missing persons are confidential and are available only to:
(1) a law enforcement agency investigating a report of a missing person;
(2) an agency having the responsibility or authority to care for, treat, or supervise a person who is the subject of a placement in temporary or substitute care or an adoption proceeding;
(3) a court, upon a finding that access to the records may be necessary for the determination of an issue before it;
(4) the office of the public prosecutor or its deputies;

(5) any person engaged in bona fide research when approved by the director of the division, excluding names and addresses; and

(6) entities or persons authorized to receive the information in accordance with Section 53-10-203.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-205. Uniform crime reporting system -- Use of data.**

The data acquired under the statewide uniform crime reporting system shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of an individual victim of a crime.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-206. Collection of information.**

The commissioner and persons designated by him may require all peace officers, the warden of the state prison, the keeper of any jail or correctional institution, or superintendent of the state hospital to obtain information that will aid in establishing the records required to be kept.

Renumbered and Amended by Chapter 263, 1998 General Session
Amended by Chapter 282, 1998 General Session

**53-10-207. Peace officers, prosecutors, and magistrates to supply information to state and F.B.I. -- Notification of arrest based on warrant.**

(1) Every peace officer shall:

(a) cause fingerprints of persons he has arrested to be taken on forms provided by the division and the Federal Bureau of Investigation;

(b) supply information requested on the forms; and

(c) forward without delay both copies to the division, which shall forward the F.B.I. copy to the Identification Division of the Federal Bureau of Investigation.

(2) If, after fingerprints have been taken in accordance with Subsection (1), the prosecutor declines to prosecute, or investigative action as described in Section 77-2-3 is terminated, the prosecutor or law enforcement agency shall notify the division of this action within 14 working days.

(3) At the preliminary hearing or arraignment of a felony case, the prosecutor shall ensure that each felony defendant has been fingerprinted and an arrest and fingerprint form is transmitted to the division. In felony cases where fingerprints have not been taken, the judge shall order the chief law enforcement officer of the jurisdiction or the sheriff of the county to:

(a) cause fingerprints of each felony defendant to be taken on forms provided by the division;

(b) supply information requested on the forms; and

(c) forward without delay both copies to the division.

(4) If an arrest is based upon information about the existence of a criminal warrant of arrest or commitment under Rule 6, Utah Rules of Criminal Procedure, every

peace officer shall without delay notify the division of the service of each warrant of arrest or commitment, in a manner specified by the division.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-208. Definition -- Offenses included on statewide warrant system -- Transportation fee to be included -- Statewide warrant system responsibility -- Quality control -- Training -- Technical support -- Transaction costs.**

(1) "Statewide warrant system" means the portion of the state court computer system that is accessible by modem from the state mainframe computer and contains:

(a) records of criminal warrant information; and

(b) after notice and hearing, records of protective orders issued pursuant to:

(i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act; or

(ii) Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act.

(2) (a) The division shall include on the statewide warrant system all warrants issued for felony offenses and class A, B, and C misdemeanor offenses in the state.

(b) The division shall include on the statewide warrant system all warrants issued for failure to appear on a traffic citation as ordered by a magistrate under Subsection 77-7-19(3).

(c) For each warrant, the division shall indicate whether the magistrate ordered under Section 77-7-5 and Rule 6, Utah Rules of Criminal Procedure, that the accused appear in court.

(3) The division is the agency responsible for the statewide warrant system and shall:

(a) ensure quality control of all warrants of arrest or commitment and protective orders contained in the statewide warrant system by conducting regular validation checks with every clerk of a court responsible for entering the information on the system;

(b) upon the expiration of the protective orders and in the manner prescribed by the division, purge information regarding protective orders described in Subsection 53-10-208.1(4) within 30 days of the time after expiration;

(c) establish system procedures and provide training to all criminal justice agencies having access to information contained on the state warrant system;

(d) provide technical support, program development, and systems maintenance for the operation of the system; and

(e) pay data processing and transaction costs for state, county, and city law enforcement agencies and criminal justice agencies having access to information contained on the state warrant system.

(4) (a) Any data processing or transaction costs not funded by legislative appropriation shall be paid on a pro rata basis by all agencies using the system during the fiscal year.

(b) This Subsection (4) supersedes any conflicting provision in Subsection (3)(e).

Amended by Chapter 292, 2009 General Session
Amended by Chapter 356, 2009 General Session

**53-10-208.1. Magistrates and court clerks to supply information.**

Every magistrate or clerk of a court responsible for court records in this state shall, within 30 days of the disposition and on forms and in the manner provided by the division, furnish the division with information pertaining to:

(1) all dispositions of criminal matters, including:

(a) guilty pleas;

(b) convictions;

(c) dismissals;

(d) acquittals;

(e) pleas held in abeyance;

(f) judgments of not guilty by reason of insanity for a violation of:

(i) a felony offense;

(ii) Title 76, Chapter 5, Offenses Against the Person; or

(iii) Title 76, Chapter 10, Part 5, Weapons;

(g) judgments of guilty with a mental illness;

(h) finding of mental incompetence to stand trial for a violation of:

(i) a felony offense;

(ii) Title 76, Chapter 5, Offenses Against the Person; or

(iii) Title 76, Chapter 10, Part 5, Weapons; or

(i) probations granted; and

(2) orders of civil commitment under the terms of Section 62A-15-631;

(3) the issuance, recall, cancellation, or modification of all warrants of arrest or commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303, within one day of the action and in a manner provided by the division; and

(4) protective orders issued after notice and hearing, pursuant to:

(a) Title 77, Chapter 36, Cohabitant Abuse Procedures Act; or

(b) Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act.

Amended by Chapter 366, 2011 General Session

**53-10-209. Penal institutions and state hospital to supply information.**

(1) The warden of the state prison, keeper of any jail or correctional institution, and superintendent of the state hospital shall forward to the division:

(a) the fingerprints and recent photographs of all persons confined in each institution under criminal commitment;

(b) information relating to the parole, termination or expiration of sentence, or any other release of each person from confinement during the preceding month; and

(c) a photograph taken near the time of release.

(2) The adult probation and parole section of the Department of Corrections shall furnish to the division:

(a) information relating to the revocation or termination of probation or parole; and

(b) upon request, the names, fingerprints, photographs, and other data.

(3) The chair of the Board of Pardons and Parole shall provide to the division information regarding the issuance, recall, cancellation, or modification of any warrant issued by members of the Board of Pardons and Parole, under Section 77-27-11, within

one day of issuance.

(4) Information provided to the division under this section shall be on forms designated by the division.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-210. Response for requests -- Fees.**

(1) In responding to requests for criminal background checks, the division shall make an earnest effort to provide the requested information within three weeks of receipt of a request.

(2) Fees and other payments received by the division in payment for criminal background check services shall be deposited in the General Fund and the Legislature shall make an annual appropriation for payment of personnel and other costs incurred in providing those services.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-211. Notice required of arrest of school employee for controlled substance or sex offense.**

(1) The chief administrative officer of the law enforcement agency making the arrest or receiving notice under Subsection (2) shall immediately notify the following individuals:

(a) the administrator of teacher certification in the State Office of Education; and

(b) the superintendent of schools of the employing public school district or, if the offender is an employee of a private school, the administrator of that school.

(2) Subsection (1) applies upon:

(a) the arrest of any school employee for any offense:

(i) in Section 58-37-8;

(ii) in Title 76, Chapter 5, Part 4, Sexual Offenses; or

(iii) involving sexual conduct; or

(b) upon receiving notice from any other jurisdiction that a school employee has committed an act which would, if committed in Utah, be an offense under Subsection (2)(a).

Amended by Chapter 324, 2010 General Session

**53-10-212. Supplies and equipment for compliance by reporting agencies.**

All governing boards or commissions of each city, town, county, or correctional institution of the state shall furnish the appropriate officials with supplies and equipment necessary to perform the duties prescribed in this part.

Renumbered and Amended by Chapter 263, 1998 General Session

**53-10-301. State Bureau of Investigation -- Creation -- Bureau chief appointment, qualifications, and compensation.**

(1) There is created within the division the State Bureau of Investigation.

(2) The bureau shall be administered by a bureau chief appointed by the division director with the approval of the commissioner.
(3) The bureau chief shall be experienced in administration and possess additional qualifications as determined by the division director and as provided by law.
(4) The bureau chief acts under the supervision and control of the division director and may be removed from his position at the will of the commissioner.
(5) The bureau chief shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

Amended by Chapter 5, 2002 General Session

**53-10-302. Bureau duties.**
The bureau shall:
(1) upon request, provide assistance and specialized law enforcement services to local law enforcement agencies;
(2) conduct financial investigations regarding suspicious cash transactions, fraud, and money laundering;
(3) investigate organized crime, extremist groups, and others promoting violence;
(4) investigate criminal activity of terrorist groups;
(5) enforce the Utah Criminal Code;
(6) cooperate and exchange information with other state agencies and with other law enforcement agencies of government, both within and outside of this state, to obtain information that may achieve more effective results in the prevention, detection, and control of crime and apprehension of criminals;
(7) create and maintain a statewide criminal intelligence system;
(8) provide specialized case support and investigate illegal drug production, cultivation, and sales;
(9) investigate, follow-up, and assist in highway drug interdiction cases;
(10) make rules to implement this chapter; and
(11) perform the functions specified in Part 2, Narcotics and Alcoholic Beverage Law Enforcement Act.

Amended by Chapter 316, 2000 General Session

**53-10-304. Narcotics and alcoholic product enforcement -- Responsibility and jurisdiction.**
The bureau shall:
(1) have specific responsibility for the enforcement of all laws of the state pertaining to alcoholic beverages and alcoholic products;
(2) have general law enforcement jurisdiction throughout the state;
(3) have concurrent law enforcement jurisdiction with all local law enforcement agencies and their officers;
(4) cooperate and exchange information with any other state agency and with other law enforcement agencies of government, both within and outside this state, to obtain information that may achieve more effective results in the prevention, detection,

and control of crime and apprehension of criminals;

(5) sponsor or supervise programs or projects related to prevention, detection, and control of violations of:

(a) Title 32B, Alcoholic Beverage Control Act;

(b) Title 58, Chapter 37, Utah Controlled Substance Act;

(c) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(d) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(e) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; and

(f) Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(6) assist the governor in an emergency or as the governor may require.

Amended by Chapter 276, 2010 General Session

**53-10-305. Duties of bureau chief.**

The bureau chief, with the consent of the commissioner, shall do the following:

(1) conduct in conjunction with the state boards of education and higher education in state schools, colleges, and universities, an educational program concerning alcoholic beverages and alcoholic products, and work in conjunction with civic organizations, churches, local units of government, and other organizations in the prevention of alcoholic beverage, alcoholic product, and drug violations;

(2) coordinate law enforcement programs throughout the state and accumulate and disseminate information related to the prevention, detection, and control of violations of this chapter and Title 32B, Alcoholic Beverage Control Act, as it relates to storage or consumption of an alcoholic beverage or alcoholic product on premises maintained by a club licensee, or a person required to obtain a club license, as defined in Section 32B-1-102;

(3) make inspections and investigations as required by the commission and the Department of Alcoholic Beverage Control;

(4) perform other acts as may be necessary or appropriate concerning control of the use of an alcoholic beverage or alcoholic product and drugs; and

(5) make reports and recommendations to the Legislature, the governor, the commissioner, the commission, and the Department of Alcoholic Beverage Control as may be required or requested.

Amended by Chapter 276, 2010 General Session

**53-10-401. Bureau of Forensic Services -- Creation -- Bureau Chief appointment, qualifications, and compensation.**

(1) There is created within the division the Bureau of Forensic Services.

(2) The bureau shall be administered by a bureau chief appointed by the division director with the approval of the commissioner.

(3) The bureau chief shall be experienced in administration of criminal justice and possess additional qualifications as determined by the commissioner or division director and as provided by law.

(4) The bureau chief acts under the supervision and control of the division director and may be removed from his position at the will of the commissioner.

(5) The bureau chief shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

Enacted by Chapter 263, 1998 General Session

**53-10-402. Bureau duties.**

The bureau shall:

(1) provide quality, timely, and comprehensive analysis of physical evidence from crime scenes and crime-related incidents submitted by federal, state, county, and municipal criminal justice agencies;

(2) provide expert testimony in courts of law regarding the scientific analysis and conclusion of forensic evidence using the most current and advanced analytical techniques and technology;

(3) ensure the safety of all laboratory employees against exposure to blood-borne pathogens, infectious materials, and any other biochemical or toxic hazard which may pose a threat to the safety and well-being of bureau employees;

(4) protect the chain of incoming evidence by ensuring all items are properly packaged, sealed, marked, stored, and delivered back to the submitting agency using established legal guidelines;

(5) adopt systems of identification, including blood and firearms analysis, to be used by the division to facilitate law enforcement;

(6) participate in establishing satellite laboratories in designated locations throughout the state;

(7) provide assistance to the medical community in establishing guidelines for the proper handling of individuals who are the victims of sexual assault; and

(8) upon request, provide law enforcement agencies technical and analytical support in the processing of crime scenes.

Enacted by Chapter 263, 1998 General Session

**53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

(1) Sections 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to any person who:

(a) has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

(b) has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

(c) has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);

(d) has been booked:

(i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

(ii) on or after January 1, 2015, for any felony offense; or

(e) is a minor under Subsection (3).

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or

(c) (i) any violent felony as defined in Section 53-10-403.5;

(ii) sale or use of body parts, Section 26-28-116;

(iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

(iv) driving with any amount of a controlled substance in a person's body and causing serious bodily injury or death, Subsection 58-37-8(2)(g);

(v) a felony violation of enticing a minor over the Internet, Section 76-4-401;

(vi) a felony violation of propelling a substance or object at a correctional or peace officer, Section 76-5-102.6;

(vii) aggravated human trafficking and aggravated human smuggling, Section 76-5-310;

(viii) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

(ix) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

(x) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

(xi) sale of a child, Section 76-7-203;

(xii) aggravated escape, Subsection 76-8-309(2);

(xiii) a felony violation of assault on an elected official, Section 76-8-315;

(xiv) influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole, Section 76-8-316;

(xv) advocating criminal syndicalism or sabotage, Section 76-8-902;

(xvi) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

(xvii) a felony violation of sexual battery, Section 76-9-702.1;

(xviii) a felony violation of lewdness involving a child, Section 76-9-702.5;

(xix) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;

(xx) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;

(xxi) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;

(xxii) possession of a concealed firearm in the commission of a violent felony, Subsection 76-10-504(4);

(xxiii) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection 76-10-1504(3);

(xxiv) commercial obstruction, Subsection 76-10-2402(2);

(xxv) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;

(xxvi) repeat violation of a protective order, Subsection 77-36-1.1(2)(c); or

(xxvii) violation of condition for release after arrest for domestic violence,

Section 77-36-2.5.

(3) A minor under Subsection (1) is a minor 14 years of age or older whom a Utah court has adjudicated to be within the jurisdiction of the juvenile court due to the commission of any offense described in Subsection (2), and who is:

(a) within the jurisdiction of the juvenile court on or after July 1, 2002 for an offense under Subsection (2); or

(b) in the legal custody of the Division of Juvenile Justice Services on or after July 1, 2002 for an offense under Subsection (2).

Amended by Chapter 331, 2014 General Session

**53-10-403.5. Definitions.**

As used in Sections 53-10-403, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406:

(1) "Bureau" means the Bureau of Forensic Services.

(2) "Conviction" means:

(a) a verdict or conviction;

(b) a plea of guilty or guilty and mentally ill;

(c) a plea of no contest; or

(d) the acceptance by the court of a plea in abeyance.

(3) "DNA" means deoxyribonucleic acid.

(4) "DNA specimen" or "specimen" means a sample of a person's saliva or blood.

(5) "Final judgment" means a judgment, including any supporting opinion, concerning which all appellate remedies have been exhausted or the time for appeal has expired.

(6) "Violent felony" means any offense under Section 76-3-203.5.

Amended by Chapter 405, 2010 General Session

**53-10-404. DNA specimen analysis -- Requirement to obtain the specimen.**

(1) As used in this section, "person" refers to any person as described under Section 53-10-403.

(2) (a) A person under Section 53-10-403 or any person added to the sex offender register as defined in Section 77-41-102 shall provide a DNA specimen and shall reimburse the agency responsible for obtaining the DNA specimen $150 for the cost of obtaining the DNA specimen unless:

(i) the person was booked under Section 53-10-403 and is not required to reimburse the agency under Section 53-10-404.5; or

(ii) the agency determines the person lacks the ability to pay.

(b) (i) (A) The responsible agencies shall establish guidelines and procedures for determining if the person is able to pay the fee.

(B) An agency's implementation of Subsection (2)(b)(i) meets an agency's obligation to determine an inmate's ability to pay.

(ii) An agency's guidelines and procedures may provide for the assessment of $150 on the inmate's county trust fund account and may allow a negative balance in the

account until the $150 is paid in full.

(3) (a) (i) All fees collected under Subsection (2) shall be deposited in the DNA Specimen Restricted Account created in Section 53-10-407, except that the agency collecting the fee may retain not more than $25 per individual specimen for the costs of obtaining the saliva DNA specimen.

(ii) The agency collecting the $150 fee may not retain from each separate fee more than $25, and no amount of the $150 fee may be credited to any other fee or agency obligation.

(b) The responsible agency shall determine the method of collecting the DNA specimen. Unless the responsible agency determines there are substantial reasons for using a different method of collection or the person refuses to cooperate with the collection, the preferred method of collection shall be obtaining a saliva specimen.

(c) The responsible agency may use reasonable force, as established by its guidelines and procedures, to collect the DNA sample if the person refuses to cooperate with the collection.

(d) If the judgment places the person on probation, the person shall submit to the obtaining of a DNA specimen as a condition of the probation.

(e) (i) Under this section a person is required to provide one DNA specimen and pay the collection fee as required under this section.

(ii) The person shall provide an additional DNA specimen only if the DNA specimen previously provided is not adequate for analysis.

(iii) The collection fee is not imposed for a second or subsequent DNA specimen collected under this section.

(f) Any agency that is authorized to obtain a DNA specimen under this part may collect any outstanding amount of a fee due under this section from any person who owes any portion of the fee and deposit the amount in the DNA Specimen Restricted Account created in Section 53-10-407.

(4) (a) The responsible agency shall cause a DNA specimen to be obtained as soon as possible and transferred to the Department of Public Safety:

(i) after a conviction or a finding of jurisdiction by the juvenile court;

(ii) on and after January 1, 2011, through December 31, 2014, after the booking of a person for any offense under Subsection 53-10-403(1)(c); and

(iii) on and after January 1, 2015, after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(ii).

(b) On and after May 13, 2014, through December 31, 2014, the responsible agency may cause a DNA specimen to be obtained and transferred to the Department of Public Safety after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(i).

(c) If notified by the Department of Public Safety that a DNA specimen is not adequate for analysis, the agency shall, as soon as possible:

(i) obtain and transmit an additional DNA specimen; or

(ii) request that another agency that has direct access to the person and that is authorized to collect DNA specimens under this section collect the necessary second DNA specimen and transmit it to the Department of Public Safety.

(d) Each agency that is responsible for collecting DNA specimens under this section shall establish:

(i) a tracking procedure to record the handling and transfer of each DNA specimen it obtains; and

(ii) a procedure to account for the management of all fees it collects under this section.

(5) (a) The Department of Corrections is the responsible agency whenever the person is committed to the custody of or is under the supervision of the Department of Corrections.

(b) The juvenile court is the responsible agency regarding a minor under Subsection 53-10-403(3), but if the minor has been committed to the legal custody of the Division of Juvenile Justice Services, that division is the responsible agency if a DNA specimen of the minor has not previously been obtained by the juvenile court under Section 78A-6-117.

(c) The sheriff operating a county jail is the responsible agency regarding the collection of DNA specimens from persons who:

(i) have pled guilty to or have been convicted of an offense listed under Subsection 53-10-403(2) but who have not been committed to the custody of or are not under the supervision of the Department of Corrections;

(ii) are incarcerated in the county jail:

(A) as a condition of probation for a felony offense; or

(B) for a misdemeanor offense for which collection of a DNA specimen is required;

(iii) on and after January 1, 2011, through May 12, 2014, are booked at the county jail for any offense under Subsection 53-10-403(1)(c).; and

(iv) are booked at the county jail:

(A) by a law enforcement agency that is obtaining a DNA specimen for any felony offense on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b); or

(B) on or after January 1, 2015, for any felony offense.

(d) Each agency required to collect a DNA specimen under this section shall:

(i) designate employees to obtain the saliva DNA specimens required under this section; and

(ii) ensure that employees designated to collect the DNA specimens receive appropriate training and that the specimens are obtained in accordance with generally accepted protocol.

(6) (a) As used in this Subsection (6), "department" means the Department of Corrections.

(b) Priority of obtaining DNA specimens by the department is:

(i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the custody of or under the supervision of the department before these persons are released from incarceration, parole, or probation, if their release date is prior to that of persons under Subsections (6)(b)(ii), but in no case later than July 1, 2004; and

(ii) second, the department shall obtain DNA specimens from persons who are committed to the custody of the department or who are placed under the supervision of the department after July 1, 2002, within 120 days after the commitment, if possible, but not later than prior to release from incarceration if the person is imprisoned, or prior to the termination of probation if the person is placed on probation.

(c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii) is:

(i) first, persons on probation;

(ii) second, persons on parole; and

(iii) third, incarcerated persons.

(d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains DNA specimens from persons in the custody of or under the supervision of the Department of Corrections as of July 1, 2002, prior to their release.

(7) (a) As used in this Subsection (7):

(i) "Court" means the juvenile court.

(ii) "Division" means the Division of Juvenile Justice Services.

(b) Priority of obtaining DNA specimens by the court from minors under Section 53-10-403 who are under the jurisdiction of the court but who are not in the legal custody of the division shall be:

(i) first, to obtain specimens from minors who as of July 1, 2002, are within the court's jurisdiction, prior to termination of the court's jurisdiction over these minors; and

(ii) second, to obtain specimens from minors who are found to be within the court's jurisdiction after July 1, 2002, within 120 days of the minor's being found to be within the court's jurisdiction, if possible, but not later than prior to termination of the court's jurisdiction over the minor.

(c) Priority of obtaining DNA specimens by the division from minors under Section 53-10-403 who are committed to the legal custody of the division shall be:

(i) first, to obtain specimens from minors who as of July 1, 2002, are within the division's legal custody and who have not previously provided a DNA specimen under this section, prior to termination of the division's legal custody of these minors; and

(ii) second, to obtain specimens from minors who are placed in the legal custody of the division after July 1, 2002, within 120 days of the minor's being placed in the custody of the division, if possible, but not later than prior to termination of the court's jurisdiction over the minor.

(8) (a) The Department of Corrections, the juvenile court, the Division of Juvenile Justice Services, and all law enforcement agencies in the state shall by policy establish procedures for obtaining saliva DNA specimens, and shall provide training for employees designated to collect saliva DNA specimens.

(b) (i) The department may designate correctional officers, including those employed by the adult probation and parole section of the department, to obtain the saliva DNA specimens required under this section.

(ii) The department shall ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.

Amended by Chapter 331, 2014 General Session

**53-10-404.5. Obtaining DNA specimen at time of booking -- Payment of fee**

**upon conviction.**

(1) (a) When a sheriff books a person for any offense under Subsections 53-10-403(1)(c) and (d), the sheriff shall obtain a DNA specimen from the person upon booking of the person at the county jail, except under Subsection (1)(b).

(b) If at the time of booking the sheriff is able to obtain information from the bureau stating that the bureau has on file a DNA specimen for the person, the sheriff is not required to obtain an additional DNA specimen.

(2) The person booked under Subsection (1) shall pay a fee of $150 for the cost of obtaining the DNA specimen if:

(a) the charge upon which the booking is based is resolved by a conviction or the person is convicted of any charge arising out of the same criminal episode regarding which the DNA specimen was obtained; and

(b) the person's DNA sample is not on file under Subsection (1)(b).

(3) (a) All fees collected under Subsection (2) shall be deposited in the DNA Specimen Restricted Account created in Section 53-10-407, except that the agency collecting the fee may retain not more than $25 per individual specimen for the costs of obtaining the DNA specimen.

(b) The agency collecting the $150 fee may not retain from each separate fee more than $25, and no amount of the $150 fee may be credited to any other fee or agency obligation.

(4) Any DNA specimen obtained under this section shall be held and may not be processed until:

(a) the court has bound the person over for trial following a preliminary hearing for any charge arising out of the same criminal episode regarding which the person was booked;

(b) the person has waived the preliminary hearing for any charge arising out of the same criminal episode regarding which the person was booked; or

(c) a grand jury has returned an indictment for any charge arising out of the same criminal episode regarding which the person was booked.

Amended by Chapter 331, 2014 General Session

**53-10-405. DNA specimen analysis -- Saliva sample to be obtained by agency -- Blood sample to be drawn by professional.**

(1) (a) A saliva sample shall be obtained by the responsible agency under Subsection 53-10-404(5).

(b) The sample shall be obtained in a professionally acceptable manner, using appropriate procedures to ensure the sample is adequate for DNA analysis.

(2) (a) A blood sample shall be drawn in a medically acceptable manner by any of the following:

(i) a physician;

(ii) a registered nurse;

(iii) a licensed practical nurse;

(iv) a paramedic;

(v) as provided in Subsection (2)(b), emergency medical service personnel other than paramedics; or

(vi) a person with a valid permit issued by the Department of Health under Section 26-1-30.

(b) The Department of Health may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section 26-8a-102, are authorized to draw blood under Subsection (2)(a)(v), based on their type of certification under Section 26-8a-302.

(c) A person authorized by this section to draw a blood sample may not be held civilly liable for drawing a sample in a medically acceptable manner.

(3) A test result or opinion based upon a test result regarding a DNA specimen may not be rendered inadmissible as evidence solely because of deviations from procedures adopted by the department that do not affect the reliability of the opinion or test result.

(4) A DNA specimen is not required to be obtained if:

(a) the court or the responsible agency confirms with the department that the department has previously received an adequate DNA specimen obtained from the person in accordance with this section; or

(b) the court determines that obtaining a DNA specimen would create a substantial and unreasonable risk to the health of the person.

Amended by Chapter 267, 2012 General Session

**53-10-406. DNA specimen analysis -- Bureau responsibilities.**

(1) The bureau shall:

(a) administer and oversee the DNA specimen collection process;

(b) store all DNA specimens received and other physical evidence obtained from analysis of those specimens;

(c) analyze the specimens to establish the genetic profile of the donor or to otherwise determine the identity of persons or contract with other qualified public or private laboratories to conduct the analysis;

(d) maintain a criminal identification data base containing information derived from DNA analysis;

(e) utilize the specimens to create statistical population frequency data bases, provided that genetic profiles or other information in a population frequency data base may not be identified with specific individuals;

(f) ensure that the DNA identification system does not provide information allowing prediction of genetic disease or predisposition to illness;

(g) ensure that only DNA markers routinely used or accepted in the field of forensic science are used to establish the gender and unique individual identification of the donor;

(h) utilize only those DNA analysis procedures that are consistent with, and do not exceed, procedures established and used by the Federal Bureau of Investigation for the forensic analysis of DNA;

(i) destroy a DNA specimen obtained under this part if criminal charges have not been filed within 90 days after booking for an alleged offense under Subsection 53-10-403(2)(c); and

(j) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

Rulemaking Act, establishing procedures for obtaining, transmitting, and analyzing DNA specimens and for storing and destroying DNA specimens and other physical evidence and criminal identification information obtained from the analysis.

(2) Procedures for DNA analysis may include all techniques which the Department of Public Safety determines are accurate and reliable in establishing identity, including but not limited to, analysis of DNA, antigen antibodies, polymorphic enzymes, or polymorphic proteins.

(3) (a) In accordance with Section 63G-2-305, all DNA specimens received shall be classified as protected.

(b) The Department of Public Safety may not transfer or disclose any DNA specimen, physical evidence, or criminal identification information obtained, stored, or maintained under this section, except under its provisions.

(4) Notwithstanding Subsection 63G-2-202(1), the department may deny inspection if it determines that there is a reasonable likelihood that the inspection would prejudice a pending criminal investigation.

(5) The department shall adopt procedures governing the inspection of records, DNA specimens, and challenges to the accuracy of records. The procedures shall accommodate the need to preserve the materials from contamination and destruction.

(6) A person whose DNA specimen has been obtained under this part may, personally or through a legal representative, submit to the court a motion for a court order requiring the destruction of the person's DNA specimen and any criminal identification record created in connection with that specimen if:

(a) (i) a final judgment reverses the conviction, judgment, or order that created an obligation to provide a DNA specimen; or

(ii) all charges arising from the same criminal episode for which the DNA specimen was obtained under Subsection 53-10-404.5(1)(a) have been resolved by a final judgment of dismissal or acquittal; and

(b) the department determines that the person has not otherwise become obligated to submit a DNA specimen as a result of any separate conviction or juvenile adjudication for any offense listed in Subsection 53-10-403(2).

(7) A court order issued under Subsection (6) may be accompanied by a written notice to the person advising that state law provides for expungement of criminal charges if the charge is resolved by a final judgment of dismissal or acquittal.

(8) Upon receipt of a court order for destruction pursuant to Subsection (6) and receipt of a certified copy of the court order reversing the conviction, judgment, or order, a certified copy of a court order to set aside the conviction, or a certified copy of the dismissal or acquittal of the charge regarding which the person was arrested, the Department of Public Safety shall destroy any specimen received from the person, any physical evidence obtained from that specimen, and any criminal identification records pertaining to the person, unless prohibited under Subsection (6)(b).

(9) The department is not required to destroy any item of physical evidence obtained from a DNA specimen if evidence relating to another person subject to the provisions of Sections 53-10-404 and 53-10-405 would as a result be destroyed.

(10) A DNA specimen, physical evidence, or criminal identification record may not be affected by an order to set aside a conviction, except under the provisions of this section.

(11) If funding is not available for analysis of any of the DNA specimens collected under this part, the bureau shall store the collected specimens until funding is made available for analysis through state or federal funds.

(12) (a) (i) A person who, due to the person's employment or authority, has possession of or access to individually identifiable DNA information contained in the state criminal identification database or the state DNA specimen repository may not willfully disclose the information in any manner to any individual, agency, or entity that is not entitled under this part to receive the information.

(ii) A person may not willfully obtain individually identifiable DNA information from the state criminal identification database or the state DNA repository other than as authorized by this part.

(iii) A person may not willfully analyze a DNA specimen for any purpose, or to obtain any information other than as required under this part.

(iv) A person may not willfully fail to destroy or fail to ensure the destruction of a DNA specimen when destruction is required by this part or by court order.

(b) (i) A person who violates Subsection (12)(a)(i), (ii), or (iii) is guilty of a third degree felony.

(ii) A person who violates Subsection (12)(a)(iv) is guilty of a class B misdemeanor.

Amended by Chapter 405, 2010 General Session

**53-10-407. DNA Specimen Restricted Account.**

(1) There is created the DNA Specimen Restricted Account, which is referred to in this section as "the account."

(2) The sources of money for the account are:

(a) DNA collection fees paid under Section 53-10-404;

(b) any appropriations made to the account by the Legislature; and

(c) all federal money provided to the state for the purpose of funding the collection or analysis of DNA specimens collected under Section 53-10-403.

(3) The account shall earn interest, and this interest shall be deposited in the account.

(4) The Legislature may appropriate money from the account solely for the following purposes:

(a) to the Department of Corrections for the costs of collecting DNA specimens as required under Section 53-10-403;

(b) to the juvenile court for the costs of collecting DNA specimens as required under Sections 53-10-403 and 78A-6-117;

(c) to the Division of Juvenile Justice Services for the costs of collecting DNA specimens as required under Sections 53-10-403 and 62A-7-104; and

(d) to the Department of Public Safety for the costs of:

(i) storing and analyzing DNA specimens in accordance with the requirements of this part;

(ii) DNA testing which cannot be performed by the Utah State Crime Lab, as provided in Subsection 78B-9-301(8); and

(iii) reimbursing sheriffs for collecting the DNA specimens as provided under

Sections 53-10-404 and 53-10-404.5.

(5) Appropriations from the account to the Department of Corrections, the juvenile court, the Division of Juvenile Justice Services, and to the Department of Public Safety are nonlapsing.

Amended by Chapter 81, 2011 General Session

**53-10-501. Bureau of Communications -- Creation -- Bureau Chief appointment, qualifications, and compensation.**

(1) There is created within the division the Bureau of Communications.

(2) The bureau shall be managed by a bureau chief selected by the division director, with the approval of the commissioner.

(3) The bureau chief should be experienced in communications and administration, and possess additional qualifications as determined by the commissioner or division director and as provided by law.

(4) The bureau chief acts under the supervision and control of the division director.

Enacted by Chapter 263, 1998 General Session

**53-10-502. Bureau duties.**

The bureau:

(1) maintains dispatch and communications services for regional public safety consolidated communications centers;

(2) provides facilities and acts as a public safety answering point to answer and respond to 911 calls from a region;

(3) provides professional emergency dispatch and communications support for law enforcement, emergency medical, fire suppression, highway maintenance, public works, and public safety agencies representing municipal, county, state, and federal governments; and

(4) coordinates incident response.

Amended by Chapter 21, 1999 General Session

**53-11-101. Title.**

This chapter is known as the "Bail Bond Recovery Act."

Enacted by Chapter 257, 1998 General Session

**53-11-102. Definitions.**

As used in this chapter:

(1) "Applicant" means a person who has submitted to the department a completed application and all required application and processing fees.

(2) "Bail bond agency" means a bail enforcement agent licensed under this chapter who operates a business to carry out the functions of a bail enforcement agent, and to conduct this business:

(a) employs one or more persons licensed under this chapter for wages or salary, and withholds all legally required deductions and contributions; or

(b) contracts with a bail recovery agent or bail recovery apprentice on a part-time or case-by-case basis.

(3) "Bail enforcement agent" means an individual licensed under this chapter as a bail enforcement agent to enforce the terms and conditions of a defendant's release on bail in a civil or criminal proceeding, to apprehend a defendant or surrender a defendant to custody, or both, as is appropriate, and who:

(a) is appointed by a bail bond surety; and

(b) receives or is promised money or other things of value for this service.

(4) "Bail recovery agent" means an individual employed by a bail enforcement agent to assist the bail enforcement agent regarding civil or criminal defendants released on bail by:

(a) presenting a defendant for required court appearances;

(b) apprehending or surrendering a defendant to a court; or

(c) keeping the defendant under necessary surveillance.

(5) "Bail recovery apprentice" means any individual licensed under this chapter as a bail recovery apprentice, and who:

(a) has not met the requirements for licensure as a bail recovery agent or bail enforcement agent; and

(b) is employed by a bail enforcement agent, and works under the direct supervision of a bail enforcement agent or bail recovery agent employed also by the bail enforcement agent, unless the bail recovery apprentice is conducting activities at the direction of the employing bail enforcement agent that under this chapter do not require direct supervision.

(6) "Board" means the Bail Bond Recovery Licensure Board created under Section 53-11-104.

(7) "Commissioner" means the commissioner of public safety as defined under Section 53-1-107, or his designee.

(8) "Contract employee" or "independent contractor" means a person who works for an agency as an independent contractor.

(9) "Conviction" means an adjudication of guilt by a federal, state, or local court resulting from a trial or plea, including a plea of no contest or nolo contendere, regardless of whether the imposition of sentence was suspended.

(10) "Department" means the Department of Public Safety.

(11) "Direct supervision" means a bail enforcement agent employing or contracting with a bail recovery apprentice, or a bail recovery agent employed by or contracting with that bail enforcement agent who:

(a) takes responsibility for and assigns the work a bail recovery apprentice may conduct; and

(b) closely supervises, within close physical proximity, and provides direction and guidance to the bail recovery apprentice regarding the assigned work.

(12) "Emergency action" means a summary suspension of a license issued under this chapter pending revocation, suspension, or probation, in order to protect the public health, safety, or welfare.

(13) "Identification card" means a card issued by the commissioner to an

applicant qualified for licensure under this chapter.

(14) "Letter of concern" means an advisory letter to notify a licensee that while there is insufficient evidence to support probation, suspension, or revocation of a license, the department believes:

(a) the licensee should modify or eliminate certain practices; and

(b) continuation of the activities that led to the information being submitted to the department may result in further disciplinary action against the license.

(15) "Occupied structure" means any edifice, including residential and public buildings, vehicles, or any other structure that could reasonably be expected to house or shelter persons.

(16) "Supervision" means the employing bail enforcement agent is responsible for and authorizes the type and extent of work assigned to a bail recovery agent who is his employee or contract employee.

(17) "Unprofessional conduct" means:

(a) engaging or offering to engage by fraud or misrepresentation in any activities regulated by this chapter;

(b) aiding or abetting a person who is not licensed pursuant to this chapter in representing that person as a bail recovery agent in this state;

(c) gross negligence in the practice of a bail recovery agent;

(d) committing a felony or a misdemeanor involving any crime that is grounds for denial, suspension, or revocation of a bail recovery license, and conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission; or

(e) making a fraudulent or untrue statement to the board, department, its investigators, or staff.

Enacted by Chapter 257, 1998 General Session

**53-11-103. Commissioner of Public Safety administers -- Licensure -- Rulemaking.**

(1) The commissioner administers this chapter, including keeping records of:

(a) all applications for licenses under this chapter; and

(b) proof of workers' compensation required to be filed.

(2) Records shall include statements as to whether a license or renewal license has been issued for each application and bond.

(3) If a license is revoked, suspended, or canceled, or a license is denied or placed on probation, the commissioner shall ensure the date of filing the order for revocation, suspension, cancellation, denial, or probation is included in the records.

(4) The commissioner shall maintain a list of all individuals, firms, partnerships, associations, or corporations that have had a license revoked, suspended, placed on probation, or canceled and a written record of complaints filed against licensees.

(5) (a) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer this chapter.

(b) These rules shall include a requirement that all providers offering instruction or continuing instruction required for licensure under this chapter shall offer the courses to all applicants at the same course fees, in order to be qualified by the board.

(6) All records referred to under this section are open to the public under Title 63G, Chapter 2, Government Records Access and Management Act, except licensees' residential addresses and telephone numbers.

Amended by Chapter 382, 2008 General Session

**53-11-104. Board.**

(1) (a) There is established under the Department of Public Safety a Bail Bond Recovery Licensure Board consisting of five members appointed by the commissioner.

(b) The commissioner may appoint, in accordance with this section, persons who are also serving in the same capacity on the Private Investigator Hearing and Licensure Board under Section 53-9-104.

(2) Each member of the board shall be a citizen of the United States and a resident of this state at the time of appointment:

(a) one member shall be a person who is qualified for and is licensed under this chapter;

(b) one member shall be a an attorney licensed to practice in the state;

(c) one member shall be a chief of police or sheriff;

(d) one member shall be an owner of a bail bond surety company; and

(e) one member shall be a public member who:

(i) does not have a financial interest in a bail bond surety or bail bond recovery business; and

(ii) does not have an immediate family member or a household member, or a personal or professional acquaintance who is licensed or registered under this chapter.

(3) (a) As terms of current board members expire, the commissioner shall appoint each new member or reappointed member to a four-year term, except as required by Subsection (3)(b).

(b) The commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) At its first meeting every year, the board shall elect a chair and vice chair from its membership.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) A member may not serve more than one term, except that a member appointed to fill a vacancy or appointed for an initial term of less than four years under Subsection (3) may be reappointed for one additional full term.

(8) The commissioner, after a board hearing and recommendation, may remove any member of the board for misconduct, incompetency, or neglect of duty.

(9) Members of the board are immune from suit with respect to all acts done and

actions taken in good faith in carrying out the purposes of this chapter.

Amended by Chapter 134, 2014 General Session

**53-11-105. Powers and duties of board.**

(1) The board shall:

(a) review all applications for licensing and renewals of licenses submitted by the bureau under this chapter and approve or disapprove these applications;

(b) review all complaints and take disciplinary action; and

(c) establish standards for and approve providers of courses required for licensure under this section.

(2) The board may take and hear evidence, administer oaths and affirmations, and compel by subpoena the attendance of witnesses and the production of books, papers, records, documents, and other information relating to:

(a) investigation of an applicant for licensure under this chapter; or

(b) a formal complaint against or department investigation of a bail enforcement agent, bail recovery agent, or bail recovery apprentice.

Amended by Chapter 396, 2013 General Session

**53-11-106. Board meetings and hearings -- Quorum.**

(1) The board shall meet at the call of the chair, but not less often than once each quarter.

(2) A quorum consists of three members.

(3) If a member has three or more unexcused absences within a 12-month period, the commissioner shall determine if that board member should be released from board duties.

Amended by Chapter 51, 2013 General Session

**53-11-107. Licenses -- Classifications -- Prohibited acts.**

(1) Licenses under this chapter are issued in the classifications of:

(a) bail enforcement agent;

(b) bail recovery agent; or

(c) bail recovery apprentice.

(2) A person may not:

(a) act or assume to act as, or represent himself to be, a licensee unless he is licensed under this chapter; or

(b) falsely represent that he is employed by a licensee.

(3) The commissioner shall issue licenses to applicants who qualify for them under this chapter.

(4) A license issued under this chapter is not transferable or assignable.

Enacted by Chapter 257, 1998 General Session

**53-11-108. Licensure -- Basic qualifications.**

An applicant for licensure under this chapter shall meet the following qualifications:

(1) An applicant shall be:

(a) at least 21 years of age;

(b) a citizen or legal resident of the United States; and

(c) of good moral character.

(2) An applicant may not:

(a) have been convicted of:

(i) a felony;

(ii) any act involving illegally using, carrying, or possessing a dangerous weapon;

(iii) any act of personal violence or force on any person or convicted of threatening to commit any act of personal violence or force against another person;

(iv) any act constituting dishonesty or fraud;

(v) impersonating a peace officer; or

(vi) any act involving moral turpitude;

(b) be on probation, parole, community supervision, or named in an outstanding arrest warrant; or

(c) be employed as a peace officer.

(3) If previously or currently licensed in another state or jurisdiction, the applicant shall be in good standing within that state or jurisdiction.

(4) (a) The applicant shall also have completed a training program of not less than 16 hours that is approved by the board and includes:

(i) instruction on the duties and responsibilities of a licensee under this chapter, including:

(A) search, seizure, and arrest procedure;

(B) pursuit, arrest, detainment, and transportation of a bail bond suspect; and

(C) specific duties and responsibilities regarding entering an occupied structure to carry out functions under this chapter;

(ii) the laws and rules relating to the bail bond business;

(iii) the rights of the accused; and

(iv) ethics.

(b) The program may be completed after the licensure application is submitted, but shall be completed before a license may be issued under this chapter.

(5) If the applicant desires to carry a firearm as a licensee, the applicant shall:

(a) successfully complete a course regarding the specified types of weapons he plans to carry. The course shall:

(i) be not less than 16 hours;

(ii) be conducted by any national, state, or local firearms training organization approved by the Criminal Investigations and Technical Services Division created in Section 53-10-103; and

(iii) provide training regarding general familiarity with the types of firearms to be carried, including:

(A) the safe loading, unloading, storage, and carrying of the types of firearms to be concealed; and

(B) current laws defining lawful use of a firearm by a private citizen, including

lawful self-defense, use of deadly force, transportation, and concealment; and

(b) shall hold a valid license to carry a concealed weapon, issued under Section 53-5-704.

Amended by Chapter 21, 1999 General Session

**53-11-109. Licensure -- Bail enforcement agent.**

(1) (a) In addition to the requirements in Sections 53-11-108 and 53-11-110, an applicant for licensure as a bail enforcement agent shall have a minimum of 2,000 hours of experience consisting of either actual bail recovery work, or work as a law enforcement officer for a federal, state, or local governmental agency.

(b) The applicant shall substantiate the experience claimed under Subsection (1) as qualifying experience and shall provide:

(i) the exact details as to the character and nature of the experience on a form prescribed by the department; and

(ii) certification by the applicant's employers, which is subject to independent verification by the board.

(c) If an applicant is unable to supply written certification of experience from an employer in whole or in part, an applicant may offer written certification from persons other than an employer covering the same subject matter for consideration by the board.

(d) The burden of proving completion of the required experience is on the applicant.

(2) An applicant for license renewal shall have completed not less than eight hours of continuing classroom instruction.

Enacted by Chapter 257, 1998 General Session

**53-11-110. Bail enforcement agent as agency -- Bond -- Workers' compensation.**

(1) An applicant for licensure as a bail enforcement agent who will operate a bail bond recovery agency shall provide the following information as part of the application:

(a) the full name and business address of the applicant;

(b) two passport-size color photographs of the applicant;

(c) the name under which the applicant intends to conduct the business;

(d) a statement that the applicant intends to engage in the bail bond recovery business;

(e) a notarized statement of the applicant's qualifications as required by Sections 53-11-108 and 53-11-109;

(f) the fee required by Section 53-11-115;

(g) a certificate of workers' compensation insurance, if applicable; and

(h) proof of completion of a training program approved by the board.

(2) The license for a bail enforcement agent shall indicate on its face if the holder is licensed to act as a bail bond recovery agency.

Enacted by Chapter 257, 1998 General Session

**53-11-111. Licensure -- Bail recovery agent -- Requirements and limitations.**

(1) (a) In addition to the requirements in Sections 53-11-108 and 53-11-113, an applicant for licensure as a bail recovery agent shall meet all of the requirements under Section 53-11-109, but instead of the experience requirement under Subsection 53-11-109(1)(a), a bail recovery agent applicant shall have a minimum of 1,000 hours of experience consisting of either actual bail recovery work, or work as a law enforcement officer for a federal, state, or local governmental agency.

(b) The applicant shall substantiate the experience claimed under Subsection (1) as qualifying experience and shall provide:

(i) the exact details as to the character and nature of the experience on a form prescribed by the department; and

(ii) certification by the applicant's employers, which is subject to independent verification by the board.

(c) If an applicant is unable to supply written certification of experience from an employer in whole or in part, an applicant may offer written certification from persons other than an employer covering the same subject matter for consideration by the board.

(d) The burden of proving completion of the required experience is on the applicant.

(2) An applicant for license renewal shall have completed not less than eight hours of continuing classroom instruction.

(3) A bail recovery agent may work as a licensee under this chapter only as an employee of or as an independent contractor with a bail bond agency. A bail recovery agent may not:

(a) advertise his services;

(b) provide services as a licensee under this chapter directly for members of the public; or

(c) employ or hire as independent contractors bail enforcement agents, bail recovery agents, or bail recovery apprentices.

Enacted by Chapter 257, 1998 General Session

**53-11-112. Licensure -- Bail recovery apprentices -- Requirements and limitations.**

(1) In addition to the requirements in Sections 53-11-108 and 53-11-113, an applicant for licensure as a bail recovery apprentice shall meet all of the requirements under Section 53-11-109, except the applicant is not subject to the experience requirement under Subsection 53-11-109(1)(a).

(2) A bail recovery apprentice may work as a licensee only:

(a) as an employee or contract employee of a bail bond agency; and

(b) under the direct supervision of a bail enforcement agent or bail recovery agent employed also by the bail enforcement agent, unless the bail recovery apprentice is conducting activities at the direction of the employing bail enforcement agent that under this chapter do not require direct supervision.

(3) A bail recovery apprentice may not:

(a) advertise the apprentice's bail recovery services;
(b) provide services as a licensee under this chapter directly for members of the public; or
(c) employ or hire as independent contractors bail enforcement agents, bail recovery agents, or bail recovery apprentices.
(4) A bail recovery apprentice may wear an article of clothing that conspicuously displays on the chest and the back of the article of clothing lettering that clearly identifies the licensee as a bail enforcement or recovery agent.

Amended by Chapter 155, 2014 General Session

**53-11-113. Bail recovery agent and bail recovery apprentice licensure -- Liability insurance -- Fee -- Workers' compensation.**
(1) An applicant for licensure as a bail recovery agent or as a bail recovery apprentice shall provide as part of the application:
(a) the full name and address of the applicant;
(b) two passport-size color photographs of the applicant;
(c) the name of the bail bond recovery agency for which the applicant will be an employee or with which the applicant will be an independent contractor;
(d) written indication by a bail bond recovery agency or its designee that it intends to employ or contract with the applicant; and
(e) a notarized statement of the applicant's experience and qualifications required under Section 53-11-111 or 53-11-112, as appropriate.
(2) The licensure application or renewal shall be accompanied by the fee required under Section 53-11-115.
(3) (a) A license or a license renewal for a bail recovery agent or a bail recovery apprentice may not be granted to an applicant unless the employing bail bond recovery agency has on file with the department evidence of current workers' compensation coverage.
(b) A bail recovery agent or bail recovery apprentice license may not be reinstated without providing verification of the reinstatement of the workers' compensation coverage and payment of the reinstatement fee required in Section 53-11-115.
(c) The provisions of this Subsection (3) do not apply to a bail recovery agent or bail recovery apprentice who is working for a bail bond recovery agency as an independent contractor.

Enacted by Chapter 257, 1998 General Session

**53-11-114. Licensure -- Qualification credit for specified training.**
(1) An applicant under this chapter may be exempt from meeting all or a portion of the experience or training requirements for licensure if the applicant:
(a) holds a criminal justice bachelor's degree from an accredited college or university;
(b) is certified to have successfully completed the state Peace Officers Standards and Training basic training course provided under Section 53-6-202; or

(c) provides adequate proof of having successfully completed a training course which the board finds is essentially similar to the training course under Subsection (1)(b).

(2) The board determines to what extent training listed under this section may meet the experience or training requirements for licensure under this chapter.

Enacted by Chapter 257, 1998 General Session

**53-11-115. License fees -- Deposit in General Fund.**

(1) Fees for licensure, registration, and renewal are:

(a) for an original bail enforcement agent license application and license, $250, which shall include the costs of fingerprint processing and background investigation;

(b) for the renewal of a bail enforcement agent or bail bond recovery agency license, $150;

(c) for an original bail recovery agent license application and license, $150, which shall include the costs of fingerprint processing and background investigation;

(d) for the renewal of each bail recovery agent license, $100;

(e) for an original bail recovery apprentice license application and license, $150, which shall include the costs of fingerprint processing and background investigation;

(f) for the renewal of each bail recovery apprentice license, $100;

(g) for filing a renewal application under Subsection (1)(b) more than 30 days after the expiration date of the license, a delinquency fee of $50;

(h) for filing a renewal application under Subsection (1)(d) more than 30 days after the expiration date of the registration, a delinquency fee of $30;

(i) for filing a renewal application under Subsection (1)(f) more than 30 days after the expiration date of the apprentice license, a delinquency fee of $30;

(j) for the reinstatement of a bail enforcement agent or bail bond recovery agency license, $50;

(k) for a duplicate identification card, $10; and

(l) for reinstatement of an identification card, $10.

(2) (a) The bureau may renew a license granted under this chapter upon receipt of an application on forms as prescribed by the board and upon receipt of the fees prescribed in Subsection (1), if the licensee's application meets all the requirements for renewal.

(b) If the bureau determines the license renewal application does not meet all the requirements for renewal, the bureau shall submit the renewal application to the board for review and action.

(c) The renewal of a bail enforcement agent, bail recovery agent, or bail recovery apprentice license requires the filing of a liability insurance policy as required in Subsections 53-9-110(2) and (3).

(d) A license may not be renewed more than 90 days after its expiration.

(e) A licensee may not engage in any activity subject to this chapter during any period between the date of expiration of the license and the renewal of the license.

(3) (a) The board may reinstate a suspended license upon completion of the term of suspension.

(b) Renewal of the license does not entitle the licensee, while the license

remains suspended and until it is reinstated, to engage in any activity regulated by this chapter, or in any other activity or conduct in violation of the order or judgment by which the license was suspended.

(4) The board may not reinstate a revoked license or accept an application for a license from a person whose license has been revoked for at least one year after the date of revocation.

(5) All fees collected by the department under this section shall be deposited in the General Fund.

Amended by Chapter 396, 2013 General Session

**53-11-116. Issuance of license and card to applicant -- License period -- Expiration of application -- Transfer of license prohibited.**

(1) (a) The board shall issue a license to an applicant who complies with the provisions of this chapter.

(b) Each license shall:

(i) contain the name and address of the licensee, the classification of license, and the number of the license; and

(ii) be issued for a period of two years.

(2) (a) When the board issues the license, it shall also issue an identification card the design of which shall be approved by the commissioner in accordance with Section 53-11-116.5.

(b) The identification card shall be issued without charge to the licensee if an individual, or if the licensee is an agency, to each of its licensed employees and contract employees, and is evidence the licensee and his employees and contract employees are licensed under this chapter.

(3) (a) If an identification card issued to a person states on it any bail bond agencies for which the cardholder works, that person shall return the card to the employer upon termination of his work relationship with the bail bond agency licensee.

(b) Within five days the licensee shall mail or deliver the card to the commissioner for cancellation.

(4) (a) When the commissioner notifies an applicant that licensure as a bail bond recovery agency is ready for issuance, the applicant shall complete the application process within 90 days.

(b) Failure to complete the process results in cancellation of the application and forfeiture of all fees paid to that point.

(c) Subsequent application by the same applicant requires the payment of all application and license fees prescribed in Section 53-11-115.

(5) A bail bond agency licensee shall notify the commissioner of any change in the name or address of his business and of any change of employees or contract employees within 30 days after the change.

(6) (a) All new employees and contract employees of an agency who are licensed under this chapter shall submit applications on forms prescribed by the board.

(b) Upon board approval, identification cards shall be issued without charge.

Amended by Chapter 266, 1999 General Session

**53-11-116.5. Identification cards.**

(1) A person licensed under this chapter as a bail enforcement agent or a bail recovery agent shall carry an identification card issued under this section.

(2) (a) Bail bond agencies may submit designs for an identification card that shall be used for identification purposes by bail enforcement agents and bail recovery agents licensed under this chapter.

(b) The commissioner shall establish a procedure for the submitting of identification card designs and shall select one design to be used for all identification cards issued under this section.

(c) The identification card design:

(i) may not resemble any identification card currently in use by a law enforcement agency within the state; and

(ii) shall include:

(A) the licensee's classification of licensure;

(B) the license number; and

(C) a current photo of the licensee.

(d) The department of public safety shall issue identification cards, upon notification by the board that a license has been issued.

Enacted by Chapter 266, 1999 General Session

**53-11-117. Workers' compensation requirements for employees' licensure.**

(1) An applicant for licensure under this section who is employed by a bail bond recovery agency may not obtain or renew a license unless the employer has on file with the department evidence of current workers' compensation coverage.

(2) The applicant's license may only be reinstated upon verification by the department of the reinstatement of the workers' compensation coverage and payment of the reinstatement fee required under Section 53-11-115.

(3) This section does not apply to contract employees.

Enacted by Chapter 257, 1998 General Session

**53-11-118. Grounds for denial of license -- Appeal.**

(1) The board may deny a license application or a license renewal if the applicant has:

(a) committed an act that, if committed by a licensee, would be grounds for probation, suspension, or revocation of a license under this chapter;

(b) employed as a bail recovery agent or bail recovery apprentice employee or contract employee a person who has been refused a license under this chapter or who has had a license revoked in any state;

(c) committed, or aided and abetted the commission of, any act for which a license is required by this chapter, while not licensed under this chapter; or

(d) knowingly made a material misstatement in connection with an application for a license or renewal of a license under this chapter.

(2) The issuance of an identification card shall be denied to an applicant if the applicant fails to meet the required licensure qualifications.

(3) (a) The denial of the issuance of a license under this chapter shall be in writing and describe the basis for the denial.

(b) The board's denial shall inform the applicant in writing that if the applicant desires a hearing to contest the denial, the applicant shall submit a request in writing to the commissioner within 30 days after the issuance of the denial.

(c) The hearing shall be scheduled not later than 60 days after receipt of the request.

(4) The commissioner shall hear the appeal, and may:

(a) return the case to the board for reconsideration;

(b) modify the board's decision; or

(c) reverse the board's decision.

(5) Decisions of the commissioner are subject to judicial review pursuant to Section 63G-4-402.

Amended by Chapter 382, 2008 General Session

**53-11-119. Grounds for disciplinary action.**

(1) The board may take disciplinary action under Subsection (2), (4), or (5) regarding a license granted under this chapter if the board finds the licensee commits any of the following while engaged in activities regulated under this chapter:

(a) fraud or willful misrepresentation in applying for an original license or renewal of an existing license;

(b) using any letterhead, advertising, or other printed matter in any manner representing that the licensee is an instrumentality of the federal government, a state, or any political subdivision of a state;

(c) using a name different from that under which the licensee is currently licensed for any advertising, solicitation, or contract to secure business unless the name is an authorized fictitious name;

(d) impersonating, permitting, or aiding and abetting an employee to impersonate a law enforcement officer or employee of the United States, any state, or a political subdivision of a state;

(e) knowingly violating, advising, encouraging, or assisting in the violation of any statute, court order, or injunction in the course of conducting an agency regulated under this chapter;

(f) falsifying fingerprints or photographs while operating under this chapter;

(g) has a conviction for:

(i) a felony;

(ii) any act involving illegally using, carrying, or possessing a dangerous weapon;

(iii) any act involving moral turpitude;

(iv) any act of personal violence or force against any person or conviction of threatening to commit any act of personal violence or force against any person;

(v) any act constituting dishonesty or fraud;

(vi) impersonating a peace officer; or

(vii) any act of illegally obtaining or disseminating private, controlled, or protected records under Section 63G-2-801;

(h) soliciting business for an attorney in return for compensation;

(i) being placed on probation, parole, compensatory service, or named in an outstanding arrest warrant;

(j) committing, or permitting any employee or contract employee to commit any act during the period between the expiration of a license for failure to renew within the time fixed by this chapter, and the reinstatement of the license, that would be cause for the suspension or revocation of the license or grounds for denial of the application for the license;

(k) willfully neglecting to render to a client services or a report as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties, but if the investigator chooses to withdraw from the case and returns the funds for work not yet done, no violation of this section exists;

(l) failing or refusing to cooperate with, failing to provide truthful information to, or refusing access to an authorized representative of the department engaged in an official investigation;

(m) employing or contracting with any unlicensed or improperly licensed person or agency to conduct activities regulated under this chapter if the licensure status was known or could have been ascertained by reasonable inquiry;

(n) permitting, authorizing, aiding, or in any way assisting a licensed employee to conduct services as described in this chapter on an independent contractor basis and not under the authority of the licensed agency;

(o) failure to maintain in full force and effect workers' compensation insurance, if applicable;

(p) advertising in a false, deceptive, or misleading manner;

(q) refusing to display the identification card issued by the department to any person having reasonable cause to verify the validity of the license;

(r) committing any act of unprofessional conduct; or

(s) engaging in any other conduct prohibited by this chapter.

(2) On completion of an investigation, the board may:

(a) dismiss the case;

(b) take emergency action;

(c) issue a letter of concern, if applicable;

(d) impose a civil penalty not to exceed $500;

(e) place all records, evidence, findings, and conclusions and any other information pertinent to the investigation in the confidential and protected records section of the file maintained at the department; or

(f) if the board finds, based on the investigation, that a violation of Subsection (1) has occurred, notice shall be sent to the licensee of the results of the hearing by mailing a true copy to the licensee's last-known address in the department's files by certified mail, return receipt requested.

(3) A letter of concern shall be retained by the commissioner and may be used in future disciplinary actions against a licensee.

(4) (a) If the board finds, based on its investigation under Subsection (1), that the public health, safety, or welfare requires emergency action, the board may order a summary suspension of a license pending proceedings for revocation or other action.

(b) If the board issues an order of summary suspension, the board shall issue to the licensee a written notice of complaint and formal hearing, setting forth the charges made against the licensee and the licensee's right to a formal hearing before the board within 60 days.

(5) Based on information the board receives during a hearing it may:

(a) (i) dismiss the complaint if the board believes it is without merit;

(ii) fix a period and terms of probation best adapted to educate the licensee;

(iii) place the license on suspension for a period of not more than 12 months; or

(iv) revoke the license; and

(b) impose a civil penalty not to exceed $500.

(6) (a) On a finding by the board that a bail recovery agency licensee committed a violation of Subsection (1), the probation, suspension, or revocation terminates the employment of all licensees employed or employed by contract by the bail bond agency.

(b) If a licensee who is an employee or contract employee of a bail bond agency committed a violation of Subsection (1), the probation, suspension, or revocation applies only to the license held by that individual under this chapter.

(7) (a) Appeal of the board's decision shall be made in writing to the commissioner within 30 days after the date of issuance of the board's decision.

(b) The hearing shall be scheduled not later than 60 days after receipt of the request.

(c) The commissioner shall review the finding by the board and may affirm, return to the board for reconsideration, reverse, adopt, modify, supplement, amend, or reject the recommendation of the board.

(8) A person may appeal the commissioner's decision to the district court pursuant to Section 63G-4-402.

(9) All penalties collected under this section shall be deposited in the General Fund.

Amended by Chapter 382, 2008 General Session

**53-11-120. Requirement to identify employing agency.**

Upon request, a licensee shall immediately identify the name, business address, and telephone number of the bail bond agency for which the licensee is an employee or an independent contractor.

Enacted by Chapter 257, 1998 General Session

**53-11-121. False representation as a licensee -- Badge -- Identifying clothing.**

(1) A licensee under this chapter may not wear a uniform, or use a title or identification card other than the one issued under this chapter, or make any statement that would lead a reasonable person to believe the licensee is connected in any way with the federal government or any state or local governmental entity, unless the licensee has received authorization in writing by one of those governmental authorities to do so.

(2) A licensee may possess a badge of a design approved by the board for use by a licensee.

(3) The licensee shall wear the badge under Subsection (2) in a manner that prevents the accidental or inadvertent display of the badge to persons in the presence of the licensee.

(4) The licensee may display the badge under Subsection (2) only if:

(a) the licensee is also at the same time wearing an article of clothing that conspicuously displays on the chest and back of the article of clothing lettering that clearly identifies the licensee as a bail enforcement or recovery agent;

(b) the licensee also displays the licensee's identification card described in Section 53-11-116.5, either:

(i) upon request, while acting as a bail enforcement agent; or

(ii) as necessary for the licensee to demonstrate authority while acting as a bail enforcement agent;

(c) the licensee is making a planned apprehension of a defendant, and the licensee is also wearing an article of clothing described in Subsection (4)(a) or Subsection (5);

(d) the licensee is making an apprehension that is unplanned and under exigent circumstances, and the licensee is not wearing clothing described in Subsection (4)(a) or Subsection (5); or

(e) the licensee is acting as a bail enforcement agent but is not engaged in a planned apprehension or in another situation that does not require that the agent be wearing clothing as described in Subsection (4)(a) or (5) in order to display the badge.

(5) A licensee may wear a jacket of a distinctive design or style that bears a printed, embroidered, or otherwise permanently attached symbol, emblem, or insignia that:

(a) clearly identifies the wearer as a bail enforcement or recovery agent; and

(b) is approved by the board.

(6) When a licensee is acting as a bail enforcement agent and interacts with a law enforcement officer, the licensee shall, at the first opportunity, identify him or herself to the law enforcement officer and shall provide identification as a bail enforcement agent.

Amended by Chapter 396, 2013 General Session

**53-11-122. Requirements during search and seizure -- Notification of law enforcement agency.**

A bail enforcement agent, bail recovery agent, or bail recovery apprentice shall observe the following requirements before taking action authorized under this chapter:

(1) identify himself as a "bail enforcement agent," "bail recovery agent," or "bail recovery apprentice"; and

(2) comply with the notification requirements of Section 53-11-123.

Enacted by Chapter 257, 1998 General Session

**53-11-123. Notification of local law enforcement.**

(1) (a) A bail enforcement agent or bail recovery agent who is searching for or planning to apprehend a person shall notify the local law enforcement agency if the search or apprehension will be conducted in an occupied structure within that law enforcement agency's jurisdiction.

(b) When possible, notification shall be provided before taking action, but always within 24 hours of taking action.

(c) When a bail enforcement agent or bail recovery agent is preparing to enter an occupied structure to carry out an arrest, he shall verbally advise the local law enforcement agency of his location and intended action prior to acting.

(2) A bail enforcement agent, bail recovery agent, and bail recovery apprentice shall each carry with him a written document providing proof and cause for the actions he is taking as a licensee, and shall make the document available to local law enforcement agencies upon request.

Amended by Chapter 266, 1999 General Session

**53-11-124. Penalties.**

Any violation of this chapter is a class A misdemeanor, unless the circumstances of the violation amount to an offense subject to a greater criminal penalty under Title 76, Utah Criminal Code.

Enacted by Chapter 257, 1998 General Session

**53-13-101. Definitions.**

As used in this chapter:

(1) "Auxiliary officer" means a sworn, certified, and supervised special function officer, as described by Section 53-13-112.

(2) "Certified" means recognized and accepted by the division as having successfully met and maintained the standards and training requirements set and approved by the director of the division with the advice and consent of the council.

(3) "Collateral duty" means a duty to corroborate and support a peace officer function that is secondary and supplemental to the primary duty of the position.

(4) "Council" means the Peace Officer Standards and Training Council created in Section 53-6-106.

(5) "Director" means the director of the Peace Officer Standards and Training Division appointed under Section 53-6-104.

(6) "Division" means the Peace Officer Standards and Training Division created in Section 53-6-103.

(7) "Local law enforcement agency" means a law enforcement agency of any political subdivision of the state.

(8) "Primary duties" means those duties which come first in degree of effort and importance.

(9) "Principal duties" means those duties which are the highest and foremost in responsibility.

(10) "Reserve officer" means a sworn and certified peace officer, whether paid or voluntary, who:

(a) is serving in a reserve capacity for a law enforcement agency that is part of or administered by the state or any of its political subdivisions; and

(b) meets the basic and in-service training requirements of the peace officer classification in which the officer will function.

(11) "Spectrum" means that which encompasses the scope of authority. "Full spectrum" encompasses total 24-hour authority; while anything less than full authority is contained or restricted within certain limits as set forth by statute, ordinance, policy, or rule.

(12) "Sworn" means having taken the oath of office set forth in Utah Constitution Article IV, Section 10, administered by the law enforcement agency for whom a peace officer works.

(13) "Volunteer" means an officer who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising agency.

(14) (a) "While on duty" means while an officer is actually performing the job duties and work activities assigned by the employing agency and for which the officer is trained and certified, and may include time spent outside those duties and activities if that additional time involves an activity that is an integral and necessary part of the job, and is spent for the benefit, and under the direction of, the employing agency.

(b) "While on duty" does not include the time an officer spends commuting between the officer's home and place of employment unless that time involves an activity in Subsection (14)(a).

Amended by Chapter 92, 1999 General Session

**53-13-102. Peace officer classifications.**

The following officers may exercise peace officer authority only as specifically authorized by law:

(1) law enforcement officers;

(2) correctional officers;

(3) special function officers; and

(4) federal officers.

Renumbered and Amended by Chapter 282, 1998 General Session

**53-13-103. Law enforcement officer.**

(1) (a) "Law enforcement officer" means a sworn and certified peace officer who is an employee of a law enforcement agency that is part of or administered by the state or any of its political subdivisions, and whose primary and principal duties consist of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of its political subdivisions.

(b) "Law enforcement officer" specifically includes the following:

(i) any sheriff or deputy sheriff, chief of police, police officer, or marshal of any county, city, or town;

(ii) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;

(iii) all persons specified in Sections 23-20-1.5 and 79-4-501;

(iv) any police officer employed by any college or university;

(v) investigators for the Motor Vehicle Enforcement Division;

(vi) investigators for the Department of Insurance, Fraud Division;

(vii) special agents or investigators employed by the attorney general, district attorneys, and county attorneys;

(viii) employees of the Department of Natural Resources designated as peace officers by law;

(ix) school district police officers as designated by the board of education for the school district;

(x) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division;

(xi) correctional enforcement, investigative, or adult probation and parole officers employed by the Department of Corrections serving on or before July 1, 1993;

(xii) members of a law enforcement agency established by a private college or university provided that the college or university has been certified by the commissioner of public safety according to rules of the Department of Public Safety;

(xiii) airport police officers of any airport owned or operated by the state or any of its political subdivisions; and

(xiv) transit police officers designated under Section 17B-2a-823.

(2) Law enforcement officers may serve criminal process and arrest violators of any law of this state and have the right to require aid in executing their lawful duties.

(3) (a) A law enforcement officer has statewide full-spectrum peace officer authority, but the authority extends to other counties, cities, or towns only when the officer is acting under Title 77, Chapter 9, Uniform Act on Fresh Pursuit, unless the law enforcement officer is employed by the state.

(b) (i) A local law enforcement agency may limit the jurisdiction in which its law enforcement officers may exercise their peace officer authority to a certain geographic area.

(ii) Notwithstanding Subsection (3)(b)(i), a law enforcement officer may exercise authority outside of the limited geographic area, pursuant to Title 77, Chapter 9, Uniform Act on Fresh Pursuit, if the officer is pursuing an offender for an offense that occurred within the limited geographic area.

(c) The authority of law enforcement officers employed by the Department of Corrections is regulated by Title 64, Chapter 13, Department of Corrections - State Prison.

(4) A law enforcement officer shall, prior to exercising peace officer authority:

(a) (i) have satisfactorily completed the requirements of Section 53-6-205; or

(ii) have met the waiver requirements in Section 53-6-206; and

(b) have satisfactorily completed annual certified training of at least 40 hours per year as directed by the director of the division, with the advice and consent of the council.

Amended by Chapter 290, 2014 General Session
Amended by Chapter 300, 2014 General Session

**53-13-104. Correctional officer.**

(1) (a) "Correctional officer" means a sworn and certified officer employed by the Department of Corrections, any political subdivision of the state, or any private entity which contracts with the state or its political subdivisions to incarcerate inmates who is charged with the primary duty of providing community protection.

(b) "Correctional officer" includes an individual assigned to carry out any of the following types of functions:

(i) controlling, transporting, supervising, and taking into custody of persons arrested or convicted of crimes;

(ii) supervising and preventing the escape of persons in state and local incarceration facilities;

(iii) guarding and managing inmates and providing security and enforcement services at a correctional facility; and

(iv) employees of the Board of Pardons and Parole serving on or before September 1, 1993, whose primary responsibility is to prevent and detect crime, enforce criminal statutes, and provide security to the Board of Pardons and Parole, and who are designated by the Board of Pardons and Parole, approved by the commissioner of public safety, and certified by the Peace Officer Standards and Training Division.

(2) (a) Correctional officers have peace officer authority only while on duty. The authority of correctional officers employed by the Department of Corrections is regulated by Title 64, Chapter 13, Department of Corrections -- State Prison.

(b) Correctional officers may carry firearms only if authorized by and under conditions specified by the director of the Department of Corrections or the chief law enforcement officer of the employing agency.

(3) (a) An individual may not exercise the authority of an adult correctional officer until the individual has satisfactorily completed a basic training program for correctional officers and the director of the Department of Corrections has certified the completion of training to the director of the division.

(b) An individual may not exercise the authority of a county correctional officer until:

(i) the individual has satisfactorily completed a basic training program for correctional officers and any other specialized training required by the local law enforcement agency; and

(ii) the chief administrator of the local law enforcement agency has certified the completion of training to the director of the division.

(4) (a) The Department of Corrections of the state shall establish and maintain a correctional officer basic course and in-service training programs as approved by the director of the division with the advice and consent of the council.

(b) The in-service training shall:

(i) consist of no fewer than 40 hours per year; and

(ii) be conducted by the agency's own staff or other agencies.

(5) The local law enforcement agencies may establish correctional officer basic, advanced, or in-service training programs as approved by the director of the division with the advice and consent of the council.

Amended by Chapter 92, 1999 General Session

**53-13-105. Special function officer.**

(1) (a) "Special function officer" means a sworn and certified peace officer performing specialized investigations, service of legal process, security functions, or specialized ordinance, rule, or regulatory functions.

(b) "Special function officer" includes:

(i) state military police;

(ii) constables;

(iii) port-of-entry agents as defined in Section 72-1-102;

(iv) authorized employees or agents of the Department of Transportation assigned to administer and enforce the provisions of Title 72, Chapter 9, Motor Carrier Safety Act;

(v) school district security officers;

(vi) Utah State Hospital security officers designated pursuant to Section 62A-15-603;

(vii) Utah State Developmental Center security officers designated pursuant to Subsection 62A-5-206(9);

(viii) fire arson investigators for any political subdivision of the state;

(ix) ordinance enforcement officers employed by municipalities or counties may be special function officers;

(x) employees of the Department of Natural Resources who have been designated to conduct supplemental enforcement functions as a collateral duty;

(xi) railroad special agents deputized by a county sheriff under Section 17-30-2 or 17-30a-104, or appointed pursuant to Section 56-1-21.5;

(xii) auxiliary officers, as described by Section 53-13-112;

(xiii) special agents, process servers, and investigators employed by city attorneys;

(xiv) criminal tax investigators designated under Section 59-1-206; and

(xv) all other persons designated by statute as having special function officer authority or limited peace officer authority.

(2) (a) A special function officer may exercise that spectrum of peace officer authority that has been designated by statute to the employing agency, and only while on duty, and not for the purpose of general law enforcement.

(b) If the special function officer is charged with security functions respecting facilities or property, the powers may be exercised only in connection with acts occurring on the property where the officer is employed or when required for the protection of the employer's interest, property, or employees.

(c) A special function officer may carry firearms only while on duty, and only if authorized and under conditions specified by the officer's employer or chief administrator.

(3) (a) A special function officer may not exercise the authority of a peace officer until:

(i) the officer has satisfactorily completed an approved basic training program for special function officers as provided under Subsection (4); and

(ii) the chief law enforcement officer or administrator has certified this fact to the

director of the division.

(b) City and county constables and their deputies shall certify their completion of training to the legislative governing body of the city or county they serve.

(4) (a) The agency that the special function officer serves may establish and maintain a basic special function course and in-service training programs as approved by the director of the division with the advice and consent of the council.

(b) The in-service training shall consist of no fewer than 40 hours per year and may be conducted by the agency's own staff or by other agencies.

Amended by Chapter 366, 2014 General Session

**53-13-106. Federal officers -- State law enforcement authority.**

(1) (a) "Federal agency" means:

(i) the United States Bureau of Land Management;

(ii) the United States Forest Service;

(iii) the National Park Service;

(iv) the United States Fish and Wildlife Service;

(v) the United States Bureau of Reclamation;

(vi) the United States Environmental Protection Agency; and

(vii) the United States Army Corps of Engineers.

(b) "Federal employee" means an employee of a federal agency.

(c) "Federal officer" includes:

(i) a special agent of the Federal Bureau of Investigation;

(ii) a special agent of the United States Secret Service;

(iii) a special agent of the United States Department of Homeland Security, excluding a customs inspector or detention removal officer;

(iv) a special agent of the Bureau of Alcohol, Tobacco and Firearms;

(v) a special agent of the Drug Enforcement Administration;

(vi) a United States marshal, deputy marshal, and special deputy United States marshal; and

(vii) a U.S. postal inspector of the United States Postal Inspection Service.

(d) (i) Federal officers listed in Subsection (1)(c) have statewide law enforcement authority relating to felony offenses under the laws of this state. This Subsection (1)(d)(i) takes precedence over Subsection (2).

(ii) Federal agencies and federal employees may exercise law enforcement authority related to misdemeanor and felony offenses under Utah law only as established by an agreement as provided in Subsection (1)(d)(iii) and as provided in Section 53-13-106.9 or pursuant to Section 53-13-106.7. This Subsection (1)(d)(ii) takes precedence over Subsection (2).

(iii) Consistent with Section 53-13-106.9, county sheriffs may enter into agreements with federal agencies that allow concurrent authority to enforce federal laws and state and local laws, provided that:

(A) the agreement is limited to a term of not more than two years; and

(B) the officers granted authority under the agreement have completed a 20-hour training course that is focused on Utah criminal law and procedure and that is approved by the director of the Peace Officer Standards and Training Division.

(e) The council may designate other federal peace officers, as necessary, if the officers:

(i) are persons employed full-time by the United States government as federally recognized law enforcement officers primarily responsible for the investigation and enforcement of the federal laws;

(ii) have successfully completed formal law enforcement training offered by an agency of the federal government consisting of not less than 400 hours; and

(iii) maintain in-service training in accordance with the standards set forth in Section 53-13-103.

(2) Except as otherwise provided under Title 63L, Chapter 1, Federal Jurisdiction, and Title 77, Chapter 9, Uniform Act on Fresh Pursuit, a federal officer may exercise state law enforcement authority only if:

(a) the state law enforcement agencies and county sheriffs with jurisdiction enter into an agreement with the federal agency to be given authority; and

(b) except as provided in Subsection (3), each federal officer employed by the federal agency meets the waiver requirements set forth in Section 53-6-206.

(3) A federal officer working as such in the state on or before July 1, 1995, may exercise state law enforcement authority without meeting the waiver requirement.

(4) At any time, consistent with any contract with a federal agency, a state or local law enforcement authority may withdraw state law enforcement authority from any individual federal officer by sending written notice to the federal agency and to the division.

(5) The authority of a federal officer under this section is limited to the jurisdiction of the authorizing state or local agency, and may be further limited by the state or local agency to enforcing specific statutes, codes, or ordinances.

Amended by Chapter 228, 2014 General Session
Amended by Chapter 228, 2014 General Session, (Coordination Clause)

**53-13-106.1. State and local law enforcement officers and federal employees -- Definitions.**

As used in this section and in Sections 53-13-106.2 through 53-13-106.10:

(1) "Exercise law enforcement authority" and "exercise of law enforcement authority" means:

(a) to take any action on private land, state-owned land, or federally managed land, to investigate, stop, serve process, search, arrest, cite, book, or incarcerate a person for a federal, state, or local criminal violation when the action is based on:

(i) a federal statute, regulation, or rule;

(ii) a state or local statute, ordinance, regulation, or rule; or

(iii) a state or local statute, ordinance, regulation, or rule that is being enforced by a federal agency pursuant to the Assimilative Crimes Act, 18 U.S.C. Sec. 13; or

(b) to gain access to or use the correctional or communication facilities and equipment of any state or local law enforcement agency.

(2) "Federal agency" means a federal agency that manages federally managed land or regulates activities on that land, including:

(a) the United States Bureau of Land Management;

(b) the United States Forest Service;
(c) the National Park Service;
(d) the United States Fish and Wildlife Service;
(e) the United States Bureau of Reclamation;
(f) the United States Environmental Protection Agency; and
(g) the United States Army Corps of Engineers.
(3) "Federal employee" means an employee or other agent of a federal agency, but does not include:
(a) a special agent of the Federal Bureau of Investigation;
(b) a special agent of the United States Secret Service;
(c) a special agent of the United States Department of Homeland Security, unless the employee is a customs inspector or detention removal officer;
(d) a special agent of the Bureau of Alcohol, Tobacco, Firearms, and Explosives;
(e) a special agent of the United States Drug Enforcement Administration;
(f) a United States marshal, deputy marshal, or special deputy United States marshal; or
(g) a United States postal inspector of the United States Postal Inspection Service.
(4) "Federally managed land" means land managed by the following federal agencies:
(a) the United States Bureau of Land Management;
(b) the United States Forest Service;
(c) the National Park Service;
(d) the United States Fish and Wildlife Service; and
(e) the United States Bureau of Reclamation.
(5) "Proprietary jurisdiction federally managed land" means all federally managed land as defined in this section except:
(a) buildings, installations, and other structures under the exclusive jurisdiction of the Congress of the United States pursuant to the United States Constitution, Article I, Section 8, Clause 17; and
(b) parcels that constitute federal enclaves subject to the concurrent jurisdiction of the United States and the state of Utah.

Enacted by Chapter 317, 2014 General Session

**53-13-106.2. State and local law enforcement officers and federal employees -- Exercise of federal law enforcement authority when based on a federal enactment.**

Subject to Sections 53-13-106.6 and 53-13-106.7, and Subsection 53-13-106.9(1):
(1) State and local law enforcement officers may recognize a federal employee's exercise of law enforcement authority, either on or off federally managed land, when the exercise is consistent with the Constitution of the United States and based on:
(a) a federal statute other than the Assimilative Crimes Act, 18 U.S.C. Sec. 13; or

(b) a federal regulation that is authorized by a federal statute other than the Assimilative Crimes Act, 18 U.S.C. Sec. 13.

(2) Notwithstanding Subsection 53-13-106.2(1), state and local law enforcement officers may recognize a federal employee's exercise of law enforcement authority, on federally managed land other than proprietary jurisdiction federally managed land, when the exercise is consistent with the Constitution of the United States and based on:

(a) a federal statute, including the Assimilative Crimes Act, 18 U.S.C. Sec. 13; or

(b) a federal regulation that is authorized by a federal statute including the Assimilative Crimes Act, 18 U.S.C. Sec. 13.

Enacted by Chapter 317, 2014 General Session

**53-13-106.3. State and local law enforcement officers and federal employees -- Exercise of federal law enforcement authority when based on a state or local enactment.**

Subject to Section 53-13-106.7 and Subsection 53-13-106.9(1), state and local law enforcement officers are not authorized to recognize a federal employee's exercise of law enforcement authority, either on or off federally managed land, when the exercise is based on a state or local statute, ordinance, regulation, or rule.

Enacted by Chapter 317, 2014 General Session

**53-13-106.4. State and county sheriff law enforcement officers and federal employees -- Enforcement of federal laws and regulations by state and county sheriff officers.**

A state law enforcement agency or a county sheriff may assist a federal agency or federal employee to enforce federal statutes and regulations on lands managed pursuant to 43 U.S.C. Secs. 1701-1736 and Secs. 1737-1782, Federal Land Policy Management Act, after the state law enforcement agency or a county sheriff has entered into an agreement authorized by Subsection 53-13-106.9(3).

Enacted by Chapter 317, 2014 General Session

**53-13-106.6. State and local law enforcement officers and federal employees -- Exercise of federal law enforcement authority to enforce the Federal Land Policy Management Act.**

Notwithstanding Section 53-13-106.2, state and local law enforcement officers are authorized to recognize a federal employee's exercise of law enforcement authority to enforce the provisions of the Federal Land Policy Management Act on proprietary jurisdiction federally managed land, only if the exercise is consistent with the Constitution of the United States and based on:

(1) a federal statute other than the Assimilative Crimes Act, 18 U.S.C. Sec. 13; or

(2) a federal regulation that is:

(a) authorized by a federal statute other than the Assimilative Crimes Act, 18 U.S.C. Sec. 13; and

(b) necessary to implement the provisions of the Federal Land Policy Management Act with respect to the management, use, and protection of the public lands, including the property located on those lands, as provided in 43 U.S.C. Sec. 1733(a).

Enacted by Chapter 317, 2014 General Session

**53-13-106.7. State and local law enforcement officers and federal employees -- Exercise of federal law enforcement authority based on state law during emergency.**

Notwithstanding Section 53-13-106.3, state and local law enforcement officers are authorized to recognize a federal employee's limited exercise of law enforcement authority on federally managed land in cases of a violation of a state or local statute, ordinance, regulation, or rule when:

(1) the offense is an emergency and poses an immediate risk of bodily injury or damage to property;

(2) a state, county, or municipal law enforcement officer is not reasonably available to take action;

(3) the action is within the scope of the employee's or official's law enforcement power; and

(4) the federal employee turns the matter, as well as the custody of any detained citizen, over to the state, county, or municipal law enforcement officer for further action as soon as the officer becomes available.

Enacted by Chapter 317, 2014 General Session

**53-13-106.8. State and local law enforcement officers and federal employees -- Use of correctional and communication facilities.**

State and local government agencies may not allow any federal agency access to or use of the correctional and communication facilities and equipment of any state or local law enforcement agency without the express written consent of the appropriate responsible official of the state or local law enforcement agency.

Enacted by Chapter 317, 2014 General Session

**53-13-106.9. State and county sheriff law enforcement officers and federal employees -- Interagency agreements.**

Notwithstanding Section 53-13-106.3:

(1) County sheriffs may enter into agreements with federal agencies granting limited authority to specific federal employees to exercise law enforcement powers to enforce federal state and local laws, provided the agreements are limited to a term not to exceed two years and the officers granted authority have completed a 20-hour course focusing on Utah law and process approved by the director of the Peace Officer Standards and Training Division.

(2) State law enforcement agencies may, with the consent of the local county sheriff, enter into agreements as described in Subsection (1), provided that the

agreements may not exceed a duration of two years.

(3) Local county sheriffs may enter into agreements with federal agencies requiring fair compensation for assisting a federal agency or federal employee to enforce federal statutes and regulations managed pursuant to 43 U.S.C. Secs. 1701-1736 and 43 U.S.C. Secs. 1737-1782, Federal Land Policy Management Act.

Enacted by Chapter 317, 2014 General Session

**53-13-106.10. State and local law enforcement officers and federal employees -- Review by county sheriffs.**

County sheriffs shall regularly review the duties and activities of federal agencies that have law enforcement responsibilities and that are acting within the jurisdictional area of the county to determine if the federal agencies are acting consistently with this section.

Enacted by Chapter 317, 2014 General Session

**53-13-107. Basic training requirements for position -- Peace officers temporarily in the state.**

(1) (a) Any person who has satisfactorily completed, before the effective date of this chapter, an approved basic training program required of the person's position may act in a certified capacity without completion of an additional basic training program.

(b) Any person hired, appointed, or elected to any position designated in this chapter, except federal officer, shall satisfactorily complete the required basic training required of that position before the person is authorized to exercise peace officer powers under this chapter.

(2) Any peace officer employed by a law enforcement agency of another state and functioning in that capacity within Utah on a temporary basis is considered certified under Utah law:

(a) while functioning as a peace officer within the state at the request of a Utah law enforcement agency; or

(b) when conducting business as a representative of a law enforcement agency from another state.

Amended by Chapter 156, 2004 General Session

**53-13-108. Retirement.**

Eligibility for coverage under the Public Safety Contributory Retirement System or Public Safety Noncontributory Retirement System for persons and political subdivisions included in this chapter is governed by Title 49, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, and Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

Amended by Chapter 266, 2010 General Session

**53-13-109. References in other provisions.**

When the term peace officer is used in any other provision of law, the term includes anyone authorized to exercise authority as provided in this chapter, except federal officers.

Renumbered and Amended by Chapter 282, 1998 General Session

**53-13-110. Duties to investigate specified instances of abuse or neglect.**

In accordance with the requirements of Section 62A-4a-202.6, law enforcement officers shall investigate alleged instances of abuse or neglect of a child that occur while the child is in the custody of the Division of Child and Family Services, within the Department of Human Services.

Amended by Chapter 189, 2014 General Session

**53-13-111. Peace officers serving in a reserve or auxiliary capacity.**

(1) (a) Nothing in this chapter shall preclude any law enforcement agency of the state or any of its political subdivisions from utilizing a sworn and certified peace officer in a reserve or auxiliary capacity.

(b) A reserve or auxiliary officer has peace officer authority only while engaged in the reserve or auxiliary activities authorized by the chief or administrator of the agency the officer serves and shall only exercise that spectrum of peace officer authority:

(i) that the supervising agency is empowered to delegate; and

(ii) for which the officer has been trained and certified.

(2) While serving as a nonpaid volunteer in a reserve or auxiliary capacity, or working part-time for fewer hours than that which would qualify the officer as an "employee" under state or federal law, a peace officer is entitled to benefits in accordance with Title 67, Chapter 20, Volunteer Government Workers Act.

(3) The agency the reserve or auxiliary officer serves shall ensure that the officer meets the basic and in-service training requirements of the peace officer classification in which the officer will function.

Amended by Chapter 92, 1999 General Session

**53-13-112. Auxiliary officer.**

(1) An auxiliary officer is a specific category of special function officer and is required to have the level of training of a special function officer as provided in Section 53-13-105, including no fewer than 40 hours per year of in-service training.

(2) An auxiliary officer:

(a) shall work under the direction and immediate supervision of a certified law enforcement officer as defined in Section 53-13-103;

(b) is limited to the role of back-up officer to a law enforcement officer;

(c) may not initiate any action authorized for a law enforcement officer in Section 53-13-103; and

(d) may be separated from a law enforcement officer only under exigent circumstances or when engaged in functions not exclusive to law enforcement, which functions are defined by the division by rule.

Enacted by Chapter 92, 1999 General Session

**53-13-113. Authority of peace officers to administer oaths.**

A peace officer, as defined in Section 53-1-102, who is acting within the scope of his or her official duties may administer oaths.

Enacted by Chapter 127, 2000 General Session

**53-13-114. Off-duty peace officer working as a security officer.**

A peace officer may engage in off-duty employment as a security officer under Section 58-63-304 only if:

(1) the law enforcement agency employing the peace officer:

(a) has a written policy regarding peace officer employees working while off-duty as security officers; and

(b) the policy under Subsection (1)(a) is:

(i) posted and publicly available on the appropriate city, county, or state website; or

(ii) posted on the Utah Public Notice Website created in Section 63F-1-701 if the law enforcement agency does not have access to a website under Subsection (1)(b)(i).

(2) the agency's chief administrative officer, or that officer's designee, provides written authorization for an off-duty peace officer to work as a security officer; and

(3) the business or entity employing the off-duty peace officer to work as a security officer complies with state and federal income reporting and withholding requirements regarding the off-duty officer's wages.

Amended by Chapter 196, 2012 General Session

**53-14-101. Law enforcement and training academy applicants -- Employer background information.**

(1) As used in this section:

(a) "Director" means the director of a certified law enforcement officer training academy.

(b) "Employer" includes a public employer and a private employer.

(c) "Law enforcement agency" has the same definition as in Section 53-1-102.

(d) "Law enforcement officer" has the same definition as in Section 53-13-103, and includes those officers in administrative positions.

(e) "Training academy" means a peace officer training institution certified in accordance with the standards developed under Section 53-6-105.

(2) A current or former employer and the director of any training academy an applicant has attended or graduated from shall provide available information in accordance with this section regarding an applicant if the request complies with Subsection (3) and is submitted by:

(a) a law enforcement agency regarding an applicant for an employment position; or

(b) the director of a law enforcement training academy for which the applicant

requests admission under Section 53-6-203.

(3) The request for information pursuant to Subsection (2) shall be:

(a) in writing;

(b) accompanied by an authorization signed by the applicant and notarized by a notary public, in which the applicant consents to the release of the requested information and releases the employer or training academy providing the information from liability; and

(c) addressed to the employer or director and signed by a sworn officer or other authorized representative of the requesting law enforcement agency or the academy.

(4) The information that a law enforcement agency or the director of an academy may request pursuant to Subsection (2) includes:

(a) the date on which the applicant began his employment and, if applicable, the date on which the employment of the applicant was terminated;

(b) a list of the compensation that the employer provided to the applicant during the course of the employment;

(c) a copy of the application for a position of employment that the applicant submitted to the employer;

(d) a written evaluation of the performance of the applicant;

(e) a record of the attendance of the applicant;

(f) a record of disciplinary action taken against the applicant;

(g) a statement regarding whether the employer would rehire the applicant and, if the employer would not rehire the applicant, the reasons why;

(h) if applicable, a record setting forth the reason that the employment of the applicant was terminated and whether the termination was voluntary or involuntary;

(i) the record of any final action regarding an applicant's peace officer certification that is based on an investigation concerning the applicant's qualification for certification; and

(j) notice of any pending or ongoing investigation regarding the applicant's certification as a peace officer.

(5) (a) In the absence of fraud or malice, an employer or training academy is not subject to any civil liability for any relevant cause of action by releasing employment information requested under this section.

(b) This section does not in any way or manner abrogate or lessen the existing common law or statutory privileges and immunities of an employer.

(c) An employer or training academy may not provide information pursuant to Subsection (2) if the disclosure of the information is prohibited pursuant to federal or state law.

(6) An employer's refusal to disclose information to a law enforcement agency in accordance with this section constitutes grounds for a civil action by the requesting agency for injunctive relief requiring disclosure on the part of an employer.

(7) (a) (i) A law enforcement agency may use the information received pursuant to this section only to determine the suitability of an applicant for employment.

(ii) A director may use the information received pursuant to this section only to determine the suitability of an applicant for acceptance at the training academy.

(b) Except as otherwise provided in Subsection (7)(c), a law enforcement agency and a director shall maintain the confidentiality of information received pursuant

to this section.

(c) (i) A law enforcement agency may share information regarding an applicant that it receives pursuant to this section with another law enforcement agency if:

(A) the applicant is also an applicant for any employment position with the other law enforcement agency; and

(B) the confidentiality of the information is otherwise maintained.

(ii) A director may share information regarding an applicant that is received pursuant to this section with another training academy if:

(A) the applicant is an applicant for acceptance at the other training academy; and

(B) the confidentiality of the information is otherwise maintained.

(iii) A director may share information regarding an applicant, attendee, or graduate of a training academy that is received pursuant to this section with a law enforcement agency if:

(A) the applicant is applying for a position as a peace officer with the law enforcement agency; and

(B) the confidentiality of the information is otherwise maintained.

(8) This section applies to requests submitted to employers on and after July 1, 2003 for employment information under this section.

Amended by Chapter 62, 2004 General Session

**53-15-101. Title.**

This chapter is known as the "McGruff Safe House Act."

Renumbered and Amended by Chapter 382, 2008 General Session

**53-15-102. Purpose.**

(1) The Legislature recognizes that children are often in dangerous situations that may be threatening or frightening to them and that there is a need for "safe homes" in our neighborhoods where a child may go for help.

(2) The Legislature also recognizes that along with the need for "safe homes" that children can recognize easily, there is needed a method by which these homes can be identified.

(3) The purpose of this chapter is to:

(a) provide and designate a recognizable symbol for those "safe homes" that children can readily identify; and

(b) establish a method by which local law enforcement agencies can identify and train volunteers who are willing to make their homes "safe homes".

Renumbered and Amended by Chapter 382, 2008 General Session

**53-15-201. Designation -- Administration.**

(1) The National McGruff House Network Program is hereby designated as the officially recognized statewide "safe house" program for Utah.

(2) The program shall be administered through the Department of Public Safety

by the Utah Council for Crime Prevention.

Renumbered and Amended by Chapter 382, 2008 General Session

**53-15-202. Program requirements.**

(1) The statewide program administrator shall:

(a) provide support and training upon request to local law enforcement agencies interested in implementing the program in their area;

(b) provide local programs with signs for display in approved "safe homes"; and

(c) maintain a register of all "safe homes" that includes, at a minimum, the address of the home and the names of all persons living in the home.

(2) The local program shall:

(a) recruit volunteer "safe homes" in neighborhoods with the help of local community groups;

(b) provide training and education to volunteers regarding the program and its use;

(c) provide for an application process for volunteers;

(d) conduct criminal history background checks on volunteers and members of their households;

(e) approve or disapprove applications for "safe homes";

(f) provide education through community programs for parents and children on the program and the proper use of "safe homes";

(g) provide approved "safe homes" with signs for display;

(h) provide procedures by which a "safe home" may be removed from the register; and

(i) provide for a method of renewal of the "safe home" designation in order to keep the registry current and provide for the periodic review of the "safe home", the volunteer, and all members of the household.

Renumbered and Amended by Chapter 382, 2008 General Session

**53-16-101. Title.**

This chapter is known as the "Canine Body Armor Restricted Account Act."

Enacted by Chapter 294, 2011 General Session

**53-16-102. Definitions.**

(1) "Canine body armor" means a product:

(a) sold or offered for sale as personal protective body covering; and

(b) that is intended to protect a police service canine against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.

(2) "Police service canine" means a dog that:

(a) is used by a law enforcement agency;

(b) is specially trained or is in training for law enforcement work; and

(c) assists a law enforcement agency in the performance of law enforcement

duties.

Enacted by Chapter 294, 2011 General Session

**53-16-201. Canine Body Armor Restricted Account -- Creation -- Interest.**

(1) There is created within the General Fund a restricted account known as the "Canine Body Armor Restricted Account."

(2) The restricted account shall be funded by the following amounts:

(a) contributions deposited into the restricted account in accordance with Section 59-10-1315;

(b) private contributions;

(c) donations or grants from public or private entities;

(d) amounts received in accordance with Subsection 53-16-301(9); and

(e) interest described in Subsection (3).

(3) (a) The restricted account shall earn interest.

(b) Interest earned on the restricted account shall be deposited into the restricted account.

(4) The commissioner shall distribute money appropriated by the Legislature to the department from the restricted account as provided in Section 53-16-301.

Enacted by Chapter 294, 2011 General Session

**53-16-301. Commissioner to distribute amounts deposited into Canine Body Armor Restricted Account -- Procedures for distribution.**

(1) Subject to the other provisions of this section, the commissioner shall distribute amounts deposited into the restricted account in accordance with Section 53-16-201 to one or more law enforcement agencies.

(2) A law enforcement agency that receives a distribution from the commissioner in accordance with Subsection (1) shall expend the distribution only to purchase canine body armor for one or more police service canines.

(3) In accordance with any rules the department makes as authorized under Section 53-16-302, each year a law enforcement agency may apply to the commissioner to receive a distribution under this section by filing an application with the department:

(a) on or before November 1; and

(b) on a form provided by the department.

(4) The application:

(a) shall include:

(i) information required by the department establishing that the law enforcement agency intends to expend the distribution to purchase canine body armor for one or more police service canines;

(ii) a written cost estimate prepared by the seller of the canine body armor of the cost of the canine body armor the law enforcement agency seeks to purchase;

(iii) information required by the department establishing that each police service canine for which the law enforcement agency seeks to purchase canine body armor:

(A) is owned by and in the possession of the law enforcement agency;

(B) is specially trained or is in training for law enforcement work;

(C) assists or will assist a law enforcement agency in the performance of law enforcement duties; and

(D) has been trained by or is training with a law enforcement officer who is qualified to train a police service canine; and

(iv) information required by the department establishing that the law enforcement agency has a vehicle to transport each police service canine for which the law enforcement agency seeks to purchase canine body armor; and

(b) may include other information the department requires by rule.

(5) The department shall determine on or before the November 30 immediately following the November 1 described in Subsection (3) whether a law enforcement agency's application to the department meets the requirements of Subsection (4).

(6) Subject to Subsections (7) and (8), the commissioner shall distribute money appropriated by the Legislature to the department from the restricted account to one or more law enforcement agencies that meet the requirements of Subsection (4):

(a) in a total amount that does not exceed the money appropriated by the Legislature to the department from the restricted account;

(b) on or before the December 31 immediately following the November 1 described in Subsection (3); and

(c) in an amount that for a calendar year for each law enforcement agency described in this Subsection (6) does not exceed the lesser of:

(i) $3,000; or

(ii) the amount listed on the written cost estimate described in Subsection (4)(a)(ii).

(7) If the total amount of distributions law enforcement agencies seek under this section exceeds the money appropriated by the Legislature to the department from the restricted account, the commissioner shall make the distributions required by this section in the order of the date each law enforcement agency files the application required by Subsection (3) with the department until the appropriation from the restricted account is expended.

(8) If the total amount of distributions the commissioner makes under Subsection (6) is less than the money appropriated by the Legislature to the department from the restricted account, the commissioner shall make an additional distribution to one or more law enforcement agencies:

(a) that:

(i) meet the requirements of Subsection (4); and

(ii) provide a written cost estimate described in Subsection (4)(a)(ii) to the department that exceeds $3,000;

(b) in an amount that for a calendar year for each law enforcement agency described in this Subsection (8) does not exceed the lesser of:

(i) $3,000; or

(ii) the difference between the amount listed on the written cost estimate described in Subsection (4)(a)(ii) and $3,000;

(c) in the order of the date each law enforcement agency files the application required by Subsection (3) with the department; and

(d) until the sooner of:

(i) the date each law enforcement agency described in this Subsection (8) receives an additional distribution of not to exceed the amount described in Subsection (8)(b); or

(ii) the date the appropriation from the restricted account is expended.

(9) If a law enforcement agency that receives a distribution under this section does not expend the distribution to purchase canine body armor within 90 days after the date the law enforcement agency receives the distribution:

(a) the law enforcement agency shall return the distribution to the department; and

(b) the department shall deposit the distribution a law enforcement agency returns in accordance with Subsection (9)(a) into the restricted account.

Enacted by Chapter 294, 2011 General Session

**53-16-302. Department rulemaking authority.**

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules consistent with Section 53-16-301 prescribing information that a law enforcement agency shall include with an application under Section 53-16-301.

Enacted by Chapter 294, 2011 General Session