

# S.B. 227 Enrolled

## PUBLIC SAFETY DRIVING PRIVILEGE AND

### IDENTIFICATION CARD AMENDMENTS

2005 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: Rebecca D. Lockhart

#### LONG TITLE

##### General Description:

This bill modifies the Public Safety Code by amending driver license and identification card provisions.

##### Highlighted Provisions:

This bill:

- . requires the Driver License Division to make rules for acceptable documentation of an applicant's identity, Utah residency, Utah residence address, proof of legal presence, and proof of citizenship;
- . prohibits the Driver License Division from issuing a driver license, driving privilege card, or identification card to a person who is not a Utah resident;
- . defines driving privilege card as the evidence of the privilege granted to drive a motor vehicle;
- . requires the Driver License Division to:
  - . only issue a driving privilege card to a person who did not use a Social Security number to obtain a driving privilege; and
  - . distinguish a driving privilege card from a license certificate by:
    - . use a format, color, font, or other means to clearly distinguish the driving privilege card from other driver licenses; and
    - . clearly display on the front of the driving privilege card a phrase substantially similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION";

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- . prohibits a governmental entity from accepting a driving privilege card as proof of personal identification;
- . repeals, as a substitute for a Social Security number, the use of a temporary identification number (ITIN) issued by the Internal Revenue Service for purposes of obtaining an identification card issued by the Driver License Division;
- . provides that a driver license certificate expires on the person's next birthday after July 1, 2005 if:
  - . the driver license was obtained without using a Social Security number; and
  - . the driver license certificate or driving privilege card is not distinguished in certain ways by the division;
- . provides that a driving privilege card expires on the birth date of the applicant each year;
- . provides that an identification card that was obtained without using a Social Security number expires on July 1, 2005; and
- . make technical changes.

##### Monies Appropriated in this Bill:

None

##### Other Special Clauses:

This bill provides an immediate effective date.

##### Utah Code Sections Affected:

AMENDS:

**53-3-104**, as last amended by Chapter 85, Laws of Utah 2001  
**53-3-204**, as last amended by Chapter 30, Laws of Utah 2003  
**53-3-205**, as last amended by Chapter 222, Laws of Utah 2004  
**53-3-207**, as last amended by Chapter 144, Laws of Utah 2004  
**53-3-804**, as last amended by Chapter 30, Laws of Utah 2003

53-3-807, as last amended by Chapter 30, Laws of Utah 2003

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

Section 1. Section 53-3-104 is amended to read:

**53-3-104. Division duties.**

The division shall:

(1) in accordance with Title 63, Chapter 46a, 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, Utah resident status, Utah residence address, proof of legal presence, proof of citizenship, and other proof or documentation required under this chapter;

~~(c)~~ (c) regarding the restrictions to be imposed on a person driving a motor vehicle with a temporary learner permit; and

~~(d)~~ (d) for exemptions from licensing requirements as authorized in this chapter;

(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 his convictions and the traffic accidents in which he 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 41-6-48.5 ;

(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; and

(13) provide administrative support to the Driver License Medical Advisory Board created in Section 53-3-303 .

Section 2. Section 53-3-204 is amended to read:

**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) has not completed a course in driver training approved by the commissioner; or

(iii) if the person is a minor, has not completed the driving requirement under Section 53-3-211 [-]; or

(iv) is not a resident of the state of Utah.

(b) ~~Subsection~~ Subsections (1)(a)(i), (ii), and (iii) ~~does~~ do not apply to a person:

(i) who has been licensed before July 1, 1967;

(ii) who is 16 years of age or older making application for a license who has been licensed in another state or country; or

(iii) who is applying for a permit under Section 53-3-210 or 53A-13-208 .

(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; or

(e) whose driving privileges have been denied or suspended under:

(i) Section 78-3a-506 by an order of the juvenile court; or

(ii) Section 53-3-231 .

(3) The division may grant a class D or M license to a person whose commercial license is disqualified under Part 4 of this chapter if the person is not otherwise sanctioned under this chapter.

Section 3. Section **53-3-205** is amended to read:

**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 skills tests for a class D license within six months of the date of the application;

(b) a learner permit if needed after the knowledge test is passed; and

(c) an original class D license and license certificate after all tests are passed.

(3) An application and fee for an original class M license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests for a class M license within six months of the date of the application;

(b) a learner permit if needed after the knowledge test is passed; and

(c) an original class M license and license certificate after all tests are passed.

(4) 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 if needed after the motorcycle knowledge test is passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(5) 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.

(6) 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.

(7) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (5) or (6), each test may be taken two additional times within the six months for the fee provided in Section 53-3-105 .

(8) (a) ~~[A]~~ Except as provided under Subsection (8)(f), an original license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(b) ~~[A]~~ Except as provided under Subsection (8)(f), 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) ~~[A]~~ Except as provided under Subsection (8)(f), 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) A license and any endorsement to the license 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 the license is suspended, disqualified, denied, or has been cancelled or revoked by the division, or the licensee updates the information or photograph on the license certificate.

(f) (i) An original license or a renewal or a duplicate to an original license expires on the next birth date of the applicant or licensee beginning on July 1, 2005 if:

(A) the license was obtained without using a Social Security number as required under Subsection (9); and

(B) the license certificate or driving privilege card is not clearly distinguished as required under Subsection 53-3-207 (6).

(ii) 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.

(9) (a) In addition to the information required by Title 63, Chapter 46b, Administrative Procedures Act, for requests for agency action, each applicant shall have a Utah residence address and each applicant shall:

(i) provide the applicant's:

(A) full legal name;

(B) birth date;

(C) gender;

(D) between July 1, 2002 and July 1, 2007, race in accordance with the categories established by the United States Census Bureau;

(E) Social Security number or temporary identification number (ITIN) issued by the Internal Revenue Service for a person who does not qualify for a Social Security number; and

(F) Utah residence address of the applicant;

(ii) provide a description of the applicant;

(iii) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(iv) state whether the applicant has ever had any license suspended, cancelled, revoked, disqualified, or denied in the last six 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;

(v) state whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Uniform Anatomical Gift Act, in compliance with Subsection (16);

(vi) provide all other information the division requires; and

(vii) sign the application which signature may include an electronic signature as defined in Section 46-4-102 .

(b) The division shall maintain on its computerized records an applicant's:

(i) Social Security number; or

(ii) temporary identification number (ITIN).

(c) An applicant may not be denied a license for refusing to provide race information

required under Subsection (9)(a)(i)(D).

(10) 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.

(11) When an applicant receives a license in another class, all previous license certificates shall be surrendered and canceled. However, a disqualified commercial license may not be canceled unless it expires before the new license certificate is issued.

(12) (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.

(13) 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 .

(14) 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 .

(15) 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.

(16) (a) The indication of intent under Subsection (9)(a)(v) shall be authenticated by the licensee in accordance with division rule.

(b) (i) Notwithstanding Title 63, Chapter 2, Government Records Access and

Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-2 , the names and addresses of all persons who under Subsection (9)(a)(v) 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.

(17) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (9)(a)(v), for direct or indirect:

(a) loss;

- (b) detriment; or
- (c) injury.

Section 4. Section **53-3-207** is amended to read:

**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) "driving privilege card" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle;*

*(c) "governmental entity" means the state and its political subdivisions as defined in this Subsection (1);*

*(d) "political subdivision" means any county, city, town, school district, public transit district, redevelopment agency, special improvement or taxing district, special district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation; and*

*(e) "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.*

~~[(4)]~~ (2) (a) The division shall issue to every person privileged to drive a motor vehicle, a license certificate *or a driving privilege card* indicating the type or class of motor vehicle the ~~[licensee]~~ *person* may drive.

(b) A person may not drive a class of motor vehicle unless ~~[licensee]~~ *granted the privilege* in that class.

~~[(2)]~~ (3) (a) Every license certificate *or driving privilege card* shall bear:

- (i) the distinguishing number assigned to the ~~[licensee]~~ *person* by the division;
- (ii) the name, birth date, and Utah residence address of the ~~[licensee]~~ *person*;
- (iii) a brief description of the ~~[licensee]~~ *person* for the purpose of identification;
- (iv) any restrictions imposed on the license under Section 53-3-208 ;
- (v) a photograph of the ~~[licensee]~~ *person*;
- (vi) a photograph or other facsimile of the ~~[licensee's]~~ *person's* signature; and
- (vii) an indication whether the ~~[licensee]~~ *person* intends to make an anatomical gift under Title 26, Chapter 28, Uniform Anatomical Gift Act, unless the ~~[licensee]~~ *driving privilege* is extended under Subsection 53-3-214 (3).

(b) A new license certificate issued by the division may not bear the ~~[licensee's]~~ *person's* Social Security number.

(c) (i) The 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 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 license certificate *or driving privilege card* under Subsection 53-3-220 (4) and may authorize the issuance of a renewed or duplicate license certificate *or driving privilege card* without a picture if the applicant is not then living in the state.

~~[(3)]~~ (4) (a) (i) The division upon determining after an examination that an applicant is mentally and physically qualified to be granted a ~~[licensee]~~ *driving privilege* may issue to an

applicant a receipt for the fee.

(ii) The receipt serves as a temporary license certificate *or temporary driving privilege card* allowing ~~[him]~~ *the person* to drive a motor vehicle while the division is completing its investigation to determine whether ~~[he]~~ *the person* is entitled to be ~~[licensee]~~ *granted a driving privilege*.

(b) The receipt shall be in ~~[his]~~ *the person's* immediate possession while driving a motor vehicle, and it is invalid when the ~~[applicant's]~~ *person's* license certificate *or driving privilege card* has been issued or when, for good cause, the privilege has been refused.

(c) The division shall indicate on the receipt a date after which it is not valid as a license certificate *or driving privilege card*.

~~[(4)]~~ (5) (a) The division shall distinguish learner permits, temporary permits, ~~[and]~~ 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 license certificates *or driving privilege cards*.

(b) The division shall distinguish a 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 license certificates *or driving privilege cards* and by plainly printing the date the license certificate *or driving privilege card* holder is 21 years of age, which is the legal age for purchasing an alcoholic beverage or product under Section 32A-12-203 ; and

(ii) younger than 19 years of age, by plainly printing the date the 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) (a) The division shall only issue a driving privilege card to a person whose privilege*

was obtained without using a Social Security number as required under Subsection 53-3-205 (9).

(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".

~~(7)~~ (7) The provisions of Subsection ~~(4)~~ (5)(b) do not apply to a learner permit, temporary permit, or any other temporary permit or receipt issued by the division.

~~(8)~~ (8) The division shall issue temporary license certificates or temporary driving privilege cards of the same nature, except as to duration, as the license certificates or driving privilege cards that they temporarily replace, as are necessary to implement applicable provisions of this section and Section 53-3-223 .

(9) A governmental entity may not accept a driving privilege card as proof of personal identification.

~~(10)~~ (10) A person who violates Subsection ~~(4)~~ (2)(b) is guilty of a class C misdemeanor.

(11) Except as provided under this section, 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 issued under this chapter; and

(b) driving privilege card in the same way as a license certificate issued under this chapter.

Section 5. Section **53-3-804** is amended to read:

**53-3-804. Application for identification card -- Required information -- Release of anatomical gift information.**

(1) To apply for an 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) ~~(+)~~ Social Security number; ~~(e)~~

~~(iii) temporary identification number (ITIN) issued by the Internal Revenue Service for a person who does not qualify for a Social Security number;~~

(d) place of birth;

(e) height and weight;

(f) color of eyes and hair;

(g) between July 1, 2002 and July 1, 2007, race in accordance with the categories established by the United States Census Bureau;

(h) signature;

(i) photograph; and

(j) an indication whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Uniform Anatomical Gift Act.

(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) An applicant may not be denied an identification card for refusing to provide race information required under Subsection (2)(g).

Section 6. Section **53-3-807** is amended to read:

**53-3-807. Expiration -- Address and name change -- Extension for disabled.**

(1) The identification card expires on the birth date of the applicant in the tenth year following the issuance of the identification card, except as provided under Subsection (6).

(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 ten days notify the division in a manner specified by the division of his new address.

(3) If a person has applied for and received an identification card and subsequently changes his name under Title 42, Chapter 1, Change of Name, he:

(a) shall surrender the card to the division; and

(b) may apply for a new card in his 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 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 ten 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 .

(5) (a) An identification card may only be extended once.

(b) After an extension an application for an identification card must be applied for in person at the division's offices.

(6) An identification card issued to a person 65 years of age or older does not expire, but continues in effect until the death of that person.

(7) Notwithstanding the provisions of this section, an identification card that was obtained without using a Social Security number as required under Subsection 53-3-804 (2) expires on July 1, 2005.

Section 7. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.