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HOUSE BILL 127

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Paul A. Pacheco

AN ACT

RELATING TO DRIVER'S LICENSES; PROVIDING FOR A TWO-TIERED SYSTEM OF DRIVING PRIVILEGES; PROVIDING FOR A RESTRICTED TEMPORARY DRIVER'S LICENSE OF ONE YEAR'S DURATION FOR CERTAIN FOREIGN NATIONALS; REQUIRING A SOCIAL SECURITY NUMBER FROM ELIGIBLE APPLICANTS FOR CERTAIN DRIVER'S LICENSES; PROVIDING FOR CERTAIN DRIVER'S LICENSES TO BE ACCEPTED BY FEDERAL AGENCIES FOR OFFICIAL FEDERAL PURPOSES; LIMITING THE DURATION OF DRIVER'S LICENSES OF FOREIGN NATIONALS; REQUIRING PROOF OF GRANTED DEFERRED ACTION FOR CHILDHOOD ARRIVALS; INCREASING PENALTIES AND IMPOSING NEW PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 66-5-9 NMSA 1978 (being Laws 1978, Chapter 35, Section 231, as amended) is amended to read:

"66-5-9. APPLICATION FOR LICENSE, TEMPORARY LICENSE,

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1 PROVISIONAL LICENSE OR INSTRUCTION PERMIT.--

2 A. An application for an instruction permit,
3 provisional license or driver's license shall be made upon a
4 form furnished by the department. An application shall be
5 accompanied by the proper fee. For permits, provisional
6 licenses or driver's licenses other than those issued pursuant
7 to the New Mexico Commercial Driver's License Act, submission
8 of a complete application with payment of the fee entitles the
9 applicant to not more than three attempts to pass the
10 examination within a period of six months from the date of
11 application.

12 B. An application shall contain the applicant's
13 full legal name; social security number, [~~or individual tax~~
14 ~~identification number~~] except for an applicant ineligible for a
15 social security number; date of birth; sex; and New Mexico
16 residence address of the applicant and briefly describe the
17 applicant and indicate whether the applicant has previously
18 been licensed as a driver and, if so, when and by what state or
19 country and whether any such license has ever been suspended or
20 revoked or whether an application has ever been refused and, if
21 so, the date of and reason for the suspension, revocation or
22 refusal. [~~For foreign nationals applying for driver's~~
23 ~~licenses, the secretary shall accept the individual taxpayer~~
24 ~~identification number as a substitute for a social security~~
25 ~~number regardless of immigration status.~~] The secretary is

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1 authorized to establish by regulation other documents that may
2 be accepted as [~~a substitute for a social security number or an~~
3 ~~individual tax identification number~~] documentary evidence of
4 the identity and residency of the applicant.

5 C. An applicant shall indicate whether the
6 applicant is applying for a driver's license that meets federal
7 requirements to be accepted by federal agencies for official
8 federal purposes or a driver's license not intended to be
9 accepted by federal agencies for official federal purposes. An
10 applicant who is a foreign national and who does not provide
11 proof of authorized period of admission into the United States
12 shall only apply for a driver's license not intended to be
13 accepted by federal agencies for official federal purposes.

14 D. An application by a foreign national for a
15 driver's license that meets federal requirements to be accepted
16 by federal agencies for official federal purposes shall contain
17 the unique identifying number of the foreign national's valid
18 passport, valid visa or other arrival-departure record or
19 document issued by the federal government and the expiration
20 date of the foreign national's authorized period of admission
21 or extension of stay as demonstrated on the foreign national's
22 valid passport, valid visa or arrival-departure record or other
23 document issued by the federal government. The department may
24 issue to an eligible foreign national applicant a driver's
25 license that is valid only for the duration of the foreign

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1 national's authorized period of admission or extension of stay
2 and that shall state that it is term limited.

3 E. For an application for a driver's license not
4 intended to be accepted by federal agencies for official
5 federal purposes, the secretary shall require proof:

6 (1) that the applicant has been granted
7 deferred action for childhood arrivals;

8 (2) that the applicant has resided in New
9 Mexico for six consecutive months;

10 (3) that the applicant has completed a
11 driver's education course at a driver education school licensed
12 pursuant to the Driving School Licensing Act and passed a
13 written and on-the-road examination administered by the
14 department; and

15 (4) of the applicant's identity; provided that
16 the secretary shall not accept as proof of identity a driving
17 privilege permit or other document not intended as
18 identification and issued exclusively to authorize an
19 individual to drive a motor vehicle by a state or other
20 jurisdiction.

21 [~~G.~~] F. An applicant shall indicate whether the
22 applicant has been convicted of driving while under the
23 influence of intoxicating liquor or drugs in this state or in
24 any other jurisdiction. Failure to disclose any such
25 conviction prevents the issuance of a driver's license,

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1 provisional license, temporary license or instruction permit
2 for a period of one year if the failure to disclose is
3 discovered by the department prior to issuance. If the
4 nondisclosure is discovered by the department subsequent to
5 issuance, the department shall revoke the driver's license,
6 provisional license, temporary license or instruction permit
7 for a period of one year. Intentional and willful failure to
8 disclose, as required in this subsection, is a misdemeanor.

9 ~~[D-]~~ G. An applicant under eighteen years of age
10 who is making an application for a first New Mexico driver's
11 license shall submit evidence that the applicant has:

12 (1) successfully completed a driver education
13 course approved by the bureau that included a DWI prevention
14 and education component. The bureau may accept verification of
15 driver education course completion from another state if the
16 driver education course substantially meets the requirements of
17 the bureau for a course offered in New Mexico;

18 (2) had a provisional license for at least the
19 twelve-month period immediately preceding the date of the
20 application for the driver's license; provided that thirty days
21 shall be added to the twelve-month period for each adjudication
22 or conviction of a traffic violation committed during the time
23 the person was driving with a provisional license;

24 (3) complied with restrictions on that
25 license;

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1 (4) not been cited for a traffic violation
2 that is pending at the time of application; and

3 (5) not been adjudicated for an offense
4 involving the use of alcohol or drugs during the twelve-month
5 period immediately preceding the date of the application for
6 the driver's license and that there are no pending
7 adjudications alleging an offense involving the use of alcohol
8 or drugs at the time of application.

9 ~~[E-]~~ H. An applicant eighteen years of age or over,
10 but under twenty-five years of age, who is making an
11 application to be granted a first New Mexico driver's license
12 shall submit evidence with the application that the applicant
13 has successfully completed a bureau-approved DWI prevention and
14 education program.

15 ~~[F-]~~ I. An applicant twenty-five years of age or
16 over who has been convicted of driving under the influence of
17 intoxicating liquor or drugs and who is making an application
18 to be granted a first New Mexico driver's license shall submit
19 evidence with the application that the applicant has
20 successfully completed a bureau-approved DWI prevention and
21 education program.

22 ~~[G-]~~ J. Whenever an application is received from a
23 person previously licensed in another jurisdiction, the
24 department may request a copy of the driver's record from the
25 other jurisdiction. When received, the driver's record may

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1 become a part of the driver's record in this state with the
2 same effect as though entered on the driver's record in this
3 state in the original instance.

4 ~~[H.]~~ K. Whenever the department receives a request
5 for a driver's record from another licensing jurisdiction, the
6 record shall be forwarded without charge.

7 ~~[I.]~~ L. This section does not apply to driver's
8 licenses issued pursuant to the New Mexico Commercial Driver's
9 License Act."

10 **SECTION 2.** Section 66-5-15 NMSA 1978 (being Laws 1978,
11 Chapter 35, Section 237, as amended) is amended to read:

12 "66-5-15. LICENSES ISSUED TO APPLICANTS.--

13 A. The department shall, upon payment of the
14 required fee, issue to every qualified applicant a driver's
15 license as applied for. ~~[The license]~~ All licenses shall bear
16 the full legal name, date of birth, sex, current New Mexico
17 physical or mailing address, a full-face or front-view digital
18 photograph of the license holder, ~~[and]~~ a unique driver's
19 license number, a date of issuance, an expiration date, a brief
20 description of the licensee and the signature of the licensee.
21 A license shall not be valid unless it bears the signature of
22 the licensee.

23 B. The department shall establish two distinct
24 driver's licenses. On or after July 1, 2014, a driver's
25 license issued to a licensee that meets federal requirements to

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1 be accepted by federal agencies for official federal purposes
2 shall contain a unique color and design that distinguishes the
3 driver's license meeting federal requirements to be accepted by
4 federal agencies for official federal purposes from a driver's
5 license that is not intended to be accepted by federal agencies
6 for official federal purposes."

7 **SECTION 3.** Section 66-5-21 NMSA 1978 (being Laws 1978,
8 Chapter 35, Section 243, as amended by Laws 2010, Chapter 42,
9 Section 2 and by Laws 2010, Chapter 70, Section 2) is amended
10 to read:

11 "66-5-21. EXPIRATION OF LICENSE--LIMITED ISSUANCE
12 PERIOD--FOUR-YEAR ISSUANCE PERIOD--EIGHT-YEAR ISSUANCE PERIOD--
13 RENEWAL.--

14 A. Except as provided in Subsection B, [~~or~~] D, E or
15 F of this section, Section 66-5-19 NMSA 1978 [~~and~~] or Section
16 66-5-67 NMSA 1978, all driver's licenses shall be issued for a
17 period of four years, and each license shall expire thirty days
18 after the applicant's birthday in the fourth year after the
19 effective date of the license or shall expire thirty days after
20 the applicant's seventy-fifth birthday. A license issued
21 pursuant to Section 66-5-19 NMSA 1978 shall expire thirty days
22 after the applicant's birthday in the year in which the license
23 expires. Each license is renewable within ninety days prior to
24 its expiration or at an earlier date approved by the
25 department. The fee for the license shall be as provided in

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1 Section 66-5-44 NMSA 1978. The department may provide for
2 renewal by mail or telephonic or electronic means of a driver's
3 license issued pursuant to the provisions of this subsection,
4 pursuant to regulations adopted by the department that ensure
5 adequate security measures to safeguard personal information
6 that is obtained in the issuance of a driver's license. The
7 department may require an examination upon renewal of the
8 driver's license.

9 B. At the option of an applicant, a driver's
10 license may be issued for a period of eight years, provided
11 that the applicant:

12 (1) pays the amount required for a driver's
13 license issued for a term of eight years;

14 (2) otherwise qualifies for a four-year
15 driver's license; and

16 (3) will not reach the age of seventy-five
17 during the last four years of the eight-year license period or
18 reach the age of twenty-one during any year within the term of
19 the license.

20 C. A driver's license issued pursuant to the
21 provisions of Subsection B of this section shall expire thirty
22 days after the applicant's birthday in the eighth year after
23 the effective date of the license.

24 D. A driver's license issued prior to an
25 applicant's twenty-first birthday shall expire thirty days

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1 after the applicant's twenty-first birthday. A driver's
2 license issued prior to an applicant's twenty-first birthday
3 may be issued for a period of up to five years.

4 E. A driver's license that meets federal
5 requirements to be accepted by federal agencies for official
6 federal purposes issued to a foreign national shall expire on
7 the earlier of:

8 (1) thirty days after the applicant's twenty-
9 first birthday, if issued prior to the applicant's twenty-first
10 birthday;

11 (2) thirty days after the applicant's seventy-
12 fifth birthday;

13 (3) thirty days after the applicant's birthday
14 on the fourth year after the effective date of the license or
15 on the eighth year after the effective date of the license if
16 the applicant opted for a period of eight years pursuant to
17 Subsection B of this section; or

18 (4) the date of the foreign national's
19 termination of authorized period of admission or extension of
20 stay as demonstrated on the foreign national's valid passport,
21 valid visa or arrival-departure record or other document issued
22 by the federal government; provided that if that date cannot be
23 determined by the department, the driver's license shall expire
24 one year after the effective date of the license.

25 F. A driver's license that is not intended to be

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1 accepted by federal agencies for official federal purposes
2 issued to a foreign national who does not provide proof of
3 authorized period of admission into the United States shall
4 expire on the earlier of:

5 (1) one year after the effective date of the
6 license; or

7 (2) the date of the applicant's termination of
8 deferred action for childhood arrivals.

9 [E-] G. The [~~director~~] secretary may adopt
10 regulations providing for the proration of driver's license
11 fees and commercial driver's license fees due to shortened
12 licensure periods permitted pursuant to Subsection A of Section
13 66-5-19 NMSA 1978 or for licensure periods authorized pursuant
14 to the provisions of this section."

15 SECTION 4. Section 66-5-37 NMSA 1978 (being Laws 1978,
16 Chapter 35, Section 259, as amended) is amended to read:

17 "66-5-37. UNLAWFUL USE OF LICENSE.--It is a misdemeanor
18 for any person to:

19 A. display or cause or permit to be displayed or
20 have in [~~his~~] the person's possession any canceled, revoked or
21 suspended driver's license or permit or commercial driver's
22 license or permit;

23 B. lend [~~his~~] the person's driver's license or
24 permit or commercial driver's license or permit to any other
25 person or knowingly permit the use of [~~his~~] the person's

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1 license or permit by another;

2 C. display or represent as one's own any driver's
3 license or permit or commercial driver's license or permit not
4 issued to [~~him~~] the person;

5 D. fail or refuse to surrender to the division upon
6 its lawful demand any driver's license or permit or commercial
7 driver's license or permit [~~which~~] that has been suspended,
8 revoked or canceled;

9 E. use a false or fictitious name in any
10 application for a [~~driver's license or permit or~~] commercial
11 driver's license or permit or knowingly make a false statement
12 or knowingly conceal a material fact or otherwise commit a
13 fraud in any such application;

14 F. permit any unlawful use of the driver's license
15 or permit or commercial driver's license or permit issued to
16 [~~him~~] the person; or

17 G. do any act forbidden or fail to perform any act
18 required by Sections [~~66-5-1~~] 66-5-1.1 through 66-5-47 NMSA
19 1978 or the provisions of the New Mexico Commercial Driver's
20 License Act."

21 SECTION 5. Section 66-8-1.1 NMSA 1978 (being Laws 2007,
22 Chapter 319, Section 65) is amended to read:

23 "66-8-1.1. FRAUD [~~IN OBTAINING DOCUMENTS ISSUED~~] RELATED
24 TO THE ISSUANCE OF DOCUMENTS BY THE DIVISION--[~~PENALTY~~]
25 PENALTIES.--

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1 A. It is a felony for a ~~[person]~~ department
2 employee or contractor to:

3 (1) knowingly issue an identification card,
4 driver's license, vehicle or vessel registration or vehicle or
5 vessel title to a person who is not lawfully entitled to
6 issuance of that document;

7 (2) knowingly accept and use fraudulent
8 documents as a basis for issuing an identification card,
9 driver's license, vehicle or vessel registration or vehicle or
10 vessel title;

11 (3) knowingly alter a record of an
12 identification card, driver's license, vehicle or vessel
13 registration or vehicle or vessel title without legal
14 justification; or

15 (4) solicit or accept, directly or indirectly,
16 anything of value with the intent to influence a decision or
17 action on an identification card, a driver's license, a vehicle
18 or vessel registration or a vehicle or vessel title.

19 B. It is a felony for an applicant to knowingly or
20 willfully provide a false name, false information or fraudulent
21 document required by Section 66-5-9 NMSA 1978 or otherwise
22 commit a fraud in an application submitted pursuant to Section
23 66-5-9 NMSA 1978.

24 C. It is a felony for a person to:

25 (1) receive or obtain an instruction permit,

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1 driver's license or provisional license and then transfer the
2 instruction permit, driver's license or provisional license to
3 another person who is not lawfully entitled to that document;
4 or

5 (2) induce or solicit another person, or
6 conspire with another person, to violate Subsection A or B of
7 this section.

8 D. A person convicted of violating Subsection A of
9 this section is guilty of a third degree felony and shall be
10 sentenced pursuant to the provisions of Section 31-18-15 NMSA
11 1978.

12 [~~B-~~] E. A person convicted of violating Subsection
13 B or C of this section is guilty of a fourth degree felony and
14 shall be sentenced pursuant to the provisions of Section
15 31-18-15 NMSA 1978."

16 SECTION 6. A new section of the Motor Vehicle Code is
17 enacted to read:

18 "[NEW MATERIAL] USE OF RESTRICTED TEMPORARY LICENSE FOR
19 IDENTIFICATION OUTSIDE OF NEW MEXICO--PROHIBITED.--A driver's
20 license issued to a foreign national applicant who does not
21 provide a social security number or proof of authorized
22 presence in the United States shall not be valid for
23 identification purposes outside the exterior boundaries of New
24 Mexico."

25 SECTION 7. SEVERABILITY.--If any part or application of
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1 this act is held invalid, the remainder or its application to
2 other situations or persons shall not be affected.

3 SECTION 8. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2014.

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