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HOUSE BILL 852

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Daniel R. Foley

AN ACT

RELATING TO MOTOR VEHICLES; PROVIDING FOR NEW REQUIREMENTS FOR
ISSUANCE OF TEMPORARY LICENSES, PROVISIONAL LICENSES, DRIVER'S
LICENSES, INSTRUCTIONAL PERMITS AND IDENTIFICATION CARDS;
REQUIRING DOCUMENTATION OF A VALID SOCIAL SECURITY NUMBER AND
EVIDENCE OF UNITED STATES CITIZENSHIP OR LAWFUL STATUS PRIOR TO
ISSUANCE OF A LICENSE OR IDENTIFICATION CARD; REQUIRING
VERIFICATION OF ALL DOCUMENTS SUBMITTED WITH APPLICATIONS FOR
LICENSES OR IDENTIFICATION CARDS; MANDATING CERTAIN PHYSICAL
SECURITY FEATURES FOR LICENSES AND IDENTIFICATION CARDS;
PROVIDING FOR SECURITY CLEARANCE REQUIREMENTS AND FRAUDULENT
DOCUMENT RECOGNITION TRAINING; MAKING AN APPROPRIATION;
DECLARING AN EMERGENCY.

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

Section 1. A new section of Chapter 66, Article 5 NMSA

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1 1978 is enacted to read:

2 "[NEW MATERIAL] LEGISLATIVE FINDINGS.--The legislature
3 finds that:

4 A. the number of persons who enter the United
5 States illegally has risen dramatically in recent years and
6 poses a serious security threat to the United States and New
7 Mexico;

8 B. to combat the threat of those who are in the
9 United States illegally and seek to terrorize the American
10 people and destroy its democracy, in 2005 congress passed and
11 President George W. Bush signed the REAL ID Act of 2005 that
12 improves security for driver's licenses and personal
13 identification cards;

14 C. the REAL ID Act of 2005 mandates that New Mexico
15 require and verify valid documentary evidence that a person
16 applying for a driver's license or personal identification card
17 is a United States citizen or meets one of eight categories of
18 lawful immigrant status;

19 D. New Mexico's compliance with the REAL ID Act of
20 2005 is vital to protecting New Mexico from those who
21 fraudulently obtain driver's licenses and personal
22 identification cards with the intention of carrying out
23 terrorist attacks on the United States; and

24 E. if New Mexico does not comply with the REAL ID
25 Act of 2005 by May 11, 2008, its residents cannot use New

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1 Mexico driver's licenses or personal identification cards for
2 accessing federal facilities, boarding commercial aircraft,
3 entering power plants or any other purpose as determined by the
4 secretary of homeland security."

5 Section 2. Section 66-5-9 NMSA 1978 (being Laws 1978,
6 Chapter 35, Section 231, as amended) is amended to read:

7 "66-5-9. APPLICATION FOR LICENSE, TEMPORARY LICENSE,
8 PROVISIONAL LICENSE OR INSTRUCTION PERMIT.--

9 A. An application for an instruction permit,
10 provisional license or driver's license shall be made upon a
11 form furnished by the department. An application shall be
12 accompanied by the proper fee and required documentation. For
13 permits, provisional licenses or driver's licenses other than
14 those issued pursuant to the New Mexico Commercial Driver's
15 License Act, submission of a complete application with payment
16 of the fee entitles the applicant to not more than three
17 attempts to pass the examination within a period of six months
18 from the date of application.

19 B. An application shall contain the full name,
20 social security number [~~or individual tax identification~~
21 ~~number~~], United States citizenship or lawful status, date of
22 birth, sex and New Mexico residence address of the applicant
23 and briefly describe the applicant and indicate whether the
24 applicant has previously been licensed as a driver and, if so,
25 when and by what state or country and whether any such license

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1 has ever been suspended or revoked or whether an application
2 has ever been refused and, if so, the date of and reason for
3 the suspension, revocation or refusal. [~~For foreign nationals~~
4 ~~applying for driver's licenses the secretary shall accept the~~
5 ~~individual taxpayer identification number as a substitute for a~~
6 ~~social security number regardless of immigration status. The~~
7 ~~secretary is authorized to establish by regulation other~~
8 ~~documents that may be accepted as a substitute for a social~~
9 ~~security number or an individual tax identification number.~~]

10 C. In addition to the application furnished by the
11 department, an applicant shall submit the following
12 documentation for verification by the department pursuant to
13 the Motor Vehicle Code:

14 (1) a photo identity document, except that a
15 non-photo identity document is acceptable if it includes both
16 the applicant's full name and date of birth;

17 (2) a document evidencing proof of the
18 applicant's age, including a birth certificate, certified copy
19 of a birth certificate, a church record purporting to show the
20 date of birth or an acknowledged copy of the church record or a
21 valid passport;

22 (3) a document evidencing proof of the
23 applicant's social security account number or verification that
24 the applicant is not eligible for a social security account
25 number;

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1 (4) a document showing the applicant's name
2 and New Mexico residence address; and

3 (5) a document evidencing proof that the
4 applicant:

5 (a) is a citizen of the United States;

6 (b) is an alien lawfully admitted for
7 permanent or temporary residence in the United States;

8 (c) has conditional permanent resident
9 status in the United States;

10 (d) has an approved application for
11 asylum in the United States or has entered into the United
12 States in refugee status;

13 (e) has a valid, unexpired nonimmigrant
14 visa or nonimmigrant visa status for entry into the United
15 States;

16 (f) has a pending application for asylum
17 in the United States;

18 (g) has approved deferred action status;

19 or

20 (h) has a pending application for
21 adjustment status to that of an alien lawfully admitted for
22 permanent residence or conditional permanent resident status in
23 the United States.

24 [~~G.~~] D. An applicant shall indicate whether [~~he~~]
25 the applicant has been convicted of driving while under the

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1 influence of intoxicating liquor or drugs in this state or in
2 any other jurisdiction. Failure to disclose any such
3 conviction prevents the issuance of a driver's license,
4 provisional license, temporary license or instruction permit
5 for a period of one year if the failure to disclose is
6 discovered by the department prior to issuance. If the
7 nondisclosure is discovered by the department subsequent to
8 issuance, the department shall revoke the driver's license,
9 provisional license, temporary license or instruction permit
10 for a period of one year. Intentional and willful failure to
11 disclose, as required in this subsection, is a misdemeanor.

12 ~~[D.]~~ E. An applicant ~~[less than]~~ who is under
13 eighteen years of age and who is making an application to be
14 granted ~~[his]~~ a first New Mexico driver's license shall submit
15 evidence that ~~[he]~~ the applicant has:

16 (1) successfully completed a driver education
17 course that included a DWI prevention and education program
18 approved by the bureau or offered by a public school. The
19 bureau may accept verification of driver education course
20 completion from another state if the driver education course
21 substantially meets the requirements of the bureau for a course
22 offered in New Mexico;

23 (2) had a provisional license for the twelve-
24 month period immediately preceding the date of the application
25 for the driver's license;

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1 (3) complied with restrictions on that
2 license;

3 (4) not been convicted of a traffic violation
4 committed during the ninety days prior to applying for a
5 driver's license;

6 (5) not been cited for a traffic violation
7 that is pending at the time of [~~his~~] the application; and

8 (6) not been adjudicated for an offense
9 involving the use of alcohol or drugs during the twelve-month
10 period immediately preceding the date of the application for
11 the driver's license and that there are no pending
12 adjudications alleging an offense involving the use of alcohol
13 or drugs at the time of [~~his~~] the application.

14 [~~E.~~] F. An applicant eighteen years of age and
15 over, but [~~less than~~] under twenty-five years of age, who is
16 making an application to be granted [~~his~~] a first New Mexico
17 driver's license shall submit evidence with [~~his~~] the
18 application that [~~he~~] the applicant has successfully completed
19 a bureau-approved DWI prevention and education program.

20 [~~F.~~] G. An applicant twenty-five years of age [~~and~~]
21 or over who has been convicted of driving under the influence
22 of intoxicating liquor or drugs, and who is making an
23 application to be granted [~~his~~] a first New Mexico driver's
24 license, shall submit evidence with [~~his~~] the application that
25 [~~he~~] the applicant has successfully completed a bureau-approved

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1 DWI prevention and education program.

2 ~~[G.]~~ H. Whenever application is received from a
3 person previously licensed in another jurisdiction, the
4 department may request a copy of the driver's record from the
5 other jurisdiction. When received, the driver's record may
6 become a part of the driver's record in this state with the
7 same effect as though entered on the driver's record in this
8 state in the original instance.

9 ~~[H.]~~ I. Whenever the department receives a request
10 for a driver's record from another licensing jurisdiction, the
11 record shall be forwarded without charge.

12 ~~[I.]~~ J. This section does not apply to driver's
13 licenses issued pursuant to the New Mexico Commercial Driver's
14 License Act."

15 Section 3. Section 66-5-15 NMSA 1978 (being Laws 1978,
16 Chapter 35, Section 237, as amended) is amended to read:

17 "66-5-15. LICENSES ISSUED TO APPLICANTS.--

18 A. The department shall, upon payment of the
19 required fee, issue to every qualified applicant a driver's
20 license as applied for. The license shall ~~[bear the]~~ include
21 the following information:

- 22 (1) the licensee's full legal name;
23 (2) the licensee's date of birth;
24 (3) the licensee's current New Mexico physical
25 ~~[or mailing]~~ address;

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1 (4) a full face or front-view digital
2 photograph of the [~~license holder and~~] licensee;

3 (5) a brief description of the licensee; [~~and~~]

4 (6) the signature of the licensee; and

5 (7) the driver's license number.

6 B. A license shall not be valid unless it bears the
7 signature of the licensee.

8 C. The date of birth shown on a driver's license
9 shall coincide with the date of birth shown on the required
10 documentation evidencing the applicant's age as provided in
11 Section 66-5-9 NMSA 1978.

12 D. A license issued by the department shall include
13 the following features and technology that meet applicable
14 federal requirements for the issuance of driver's licenses:

15 (1) physical security features designed to
16 prevent tampering, counterfeiting or duplication of the license
17 for fraudulent purposes; and

18 (2) common machine-readable technology that
19 has defined minimum data elements."

20 Section 4. Section 66-5-20 NMSA 1978 (being Laws 1978,
21 Chapter 35, Section 242, as amended) is amended to read:

22 "66-5-20. REPLACEMENT LICENSES.--In the event that a
23 permit or driver's license issued under the provisions of this
24 article is lost, stolen, mutilated or destroyed, or in the
25 event of a name or address change, the person to whom the

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1 permit or driver's license was issued may, upon payment of the
2 required fee, obtain a replacement upon furnishing to the
3 department the documentation required for proof of age and
4 identity [~~satisfactory to the department~~] pursuant to Section
5 66-5-9 NMSA 1978. A person who loses a permit or driver's
6 license and who, after obtaining a replacement, finds the
7 original, shall immediately surrender the original to the
8 department."

9 Section 5. Section 66-5-23 NMSA 1978 (being Laws 1978,
10 Chapter 35, Section 245, as amended) is amended to read:

11 "66-5-23. RECORDS TO BE KEPT BY THE [DIVISION]
12 DEPARTMENT.--

13 A. The [~~division~~] department shall file every
14 application for a driver's license or a commercial driver's
15 license pursuant to the provisions of the New Mexico Commercial
16 Driver's License Act received by it and shall maintain suitable
17 indexes containing:

18 (1) all applications denied and, on each, note
19 the reasons for denial;

20 (2) all applications granted;

21 (3) the name of every licensee whose license
22 has been suspended or revoked by the [~~division~~] department and,
23 after each, note the reasons for the action; and

24 (4) the name of every licensee who has
25 violated [~~his~~] the licensee's written promise to appear in

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1 court.

2 B. The department shall retain paper copies of the
3 documents an applicant is required to submit pursuant to
4 Section 66-5-9 NMSA 1978 for a minimum of seven years.

5 [~~B.~~] C. The [~~division~~] department shall also file
6 all abstracts of court records of conviction or reports that it
7 receives from the trial courts of this state or from a tribal
8 court [~~which~~] that show either that a driver is a first
9 offender or a subsequent offender and whether that offender was
10 represented by counsel or waived the right to counsel, with
11 attention to Article III of the Driver License Compact, and in
12 connection therewith maintain convenient records or make
13 suitable notations in order that the individual record of each
14 licensee showing the convictions of the licensee in which [~~he~~]
15 the licensee has been involved shall be readily ascertainable
16 and available for the consideration of the [~~division~~]
17 department upon any application for renewal of license and at
18 other suitable times."

19 Section 6. Section 66-5-47 NMSA 1978 (being Laws 1978,
20 Chapter 35, Section 269, as amended) is amended to read:

21 "66-5-47. PHOTOGRAPHS--EVIDENCE OF APPLICANT'S AGE.--~~[A.]~~
22 The department shall digitally reproduce the likeness of
23 [~~drivers~~] all applicants, subject to the following conditions:

24 [~~(1)~~] A. digital photographs [~~or other~~
25 reproductions] of the likeness of all [~~persons~~] applicants

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1 shall show a full face or front view; and

2 [~~(2)~~] B. digital photographs or other reproductions
3 of the likeness of all [~~persons~~] applicants under the age of
4 twenty-one years shall have a printed legend, indicating that
5 the person is under twenty-one, which shall be displayed in
6 such manner as to be easily read by any person inspecting the
7 license.

8 [~~B. Each applicant for an initial license or a~~
9 ~~replacement license shall produce evidence of the applicant's~~
10 ~~age. Proof of an applicant's age shall be a birth certificate,~~
11 ~~certified copy of a birth certificate, a church record~~
12 ~~purporting to show the date of birth and baptism, an~~
13 ~~acknowledged copy of the church record, a valid passport or~~
14 ~~other evidence which the secretary deems sufficient. The date~~
15 ~~of birth shown on any driver's license or any instruction~~
16 ~~permit issued by the department shall coincide with the date of~~
17 ~~birth shown on the proof of applicant's age.]"~~

18 Section 7. Section 66-5-401 NMSA 1978 (being Laws 1978,
19 Chapter 35, Section 328, as amended) is amended to read:

20 "66-5-401. IDENTIFICATION CARDS.--

21 A. A person who does not have a valid New Mexico
22 driver's license may be issued an identification card by the
23 department certified by the applicant as to true name, correct
24 age and other identifying data as the department may require.
25 Every application for an identification card shall be

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1 accompanied by the proper fee and required documentation
2 pursuant to Section 66-5-402 NMSA 1978. The application shall
3 also be signed by the applicant or the applicant's parent or
4 guardian. The secretary may, for good cause, revoke or deny
5 the issuance of an identification card.

6 B. Within the forms prescribed by the department
7 for identification card applications, a space shall be provided
8 to show whether the applicant is a donor as provided in the
9 Uniform Anatomical Gift Act. A person applying for an
10 identification card may indicate that person's status on the
11 space provided on the application. The donor status indicated
12 by the applicant shall be displayed on the identification card.
13 The form and identification card shall be signed by the donor
14 in the presence of a witness who shall also sign the form in
15 the donor's presence."

16 Section 8. Section 66-5-402 NMSA 1978 (being Laws 1978,
17 Chapter 35, Section 329, as amended) is amended to read:

18 "66-5-402. PERSONS ELIGIBLE FOR IDENTIFICATION CARDS--
19 REQUIRED DOCUMENTATION.--

20 A. The department shall issue an identification
21 card only to:

22 [~~A.~~] (1) a person who is a New Mexico resident
23 and who does not have a valid New Mexico driver's license and
24 only upon [~~the furnishing of a birth certificate or its~~
25 ~~certified copy, a certificate of baptism, a valid passport or~~

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1 ~~other evidence that the department deems sufficient as~~
2 ~~documentary evidence of the age and identity of the person]~~
3 verification by the department of the required documentation
4 pursuant to Subsection B of this section; or

5 [B.] (2) a person over age sixty-five who is a
6 New Mexico resident and who is surrendering a valid New Mexico
7 driver's license, which license shall be sufficient documentary
8 evidence of the age and identity of the person.

9 B. An applicant for an identification card shall
10 submit the following documentation for verification by the
11 department pursuant to the Motor Vehicle Code:

12 (1) a photo identity document, except that a
13 non-photo identity document is acceptable if it includes both
14 the applicant's full name and date of birth;

15 (2) a document evidencing proof of the
16 applicant's age, including a birth certificate, certified copy
17 of a birth certificate, a church record purporting to show the
18 date of birth or an acknowledged copy of the church record or a
19 valid passport;

20 (3) a document evidencing proof of the
21 applicant's social security account number or verification that
22 the applicant is not eligible for a social security account
23 number;

24 (4) a document showing the applicant's name
25 and New Mexico residence address; and

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- (5) a document evidencing proof that the applicant:
- (a) is a citizen of the United States;
 - (b) is an alien lawfully admitted for permanent or temporary residence in the United States;
 - (c) has conditional permanent resident status in the United States;
 - (d) has an approved application for asylum in the United States or has entered into the United States in refugee status;
 - (e) has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;
 - (f) has a pending application for asylum in the United States;
 - (g) has approved deferred action status;
- or
- (h) has a pending application for adjustment status to that of an alien lawfully admitted for permanent residence or conditional permanent resident status in the United States."

Section 9. Section 66-5-404 NMSA 1978 (being Laws 1978, Chapter 35, Section 331, as amended) is amended to read:

"66-5-404. DUPLICATE CARDS.--In the event an identification card issued pursuant to Section 66-5-402 NMSA

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1 1978 is lost, stolen, destroyed or mutilated or a name or
2 address is changed, the person to whom the identification card
3 was issued may, upon payment of the required fee, obtain a
4 replacement upon furnishing [~~satisfactory~~] to the department
5 the documentation required for proof of age and identity [~~to~~
6 ~~the department and paying the required fee~~] pursuant to Section
7 66-5-402 NMSA 1978. [~~Any~~] A person who loses an identification
8 card and who, after obtaining a replacement, finds the original
9 card shall immediately surrender the original card to the
10 department. The same documentary evidence shall be furnished
11 for a replacement as for an original identification card."

12 Section 10. Section 66-5-405 NMSA 1978 (being Laws 1978,
13 Chapter 35, Section 332, as amended) is amended to read:

14 "66-5-405. CONTENTS OF CARD.--

15 A. The identification card shall [~~adequately~~
16 ~~describe the registrant and bear his picture that shall show a~~
17 ~~full face or front view for all registrants and indicate donor~~
18 ~~status~~] include the following information:

- 19 (1) the registrant's full legal name;
20 (2) the registrant's date of birth;
21 (3) the registrant's current New Mexico
22 physical address;
23 (4) a full face or front-view digital
24 photograph of the registrant;
25 (5) a brief description of the registrant;

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1 (6) the registrant's signature; and

2 (7) the identification card number.

3 B. All identification cards of persons under the
4 age of twenty-one years shall have a printed legend indicating
5 that the person is under twenty-one.

6 C. In addition to the information required by this
7 section, the identification card shall bear the following
8 statement:

9 "STATE OF NEW MEXICO IDENTIFICATION

10 CARD NO. _____

11 This card is provided solely for the purpose of establishing
12 that the bearer described on the card was not the holder of a
13 New Mexico driver's license as of the date of issuance of this
14 card. This identification card is not a license. ISSUED FOR
15 IDENTIFICATION PURPOSES ONLY".

16 D. An identification card issued by the department
17 shall include the following features and technology that meet
18 applicable federal requirements for the issuance of driver's
19 licenses:

20 (1) physical security features designed to
21 prevent tampering, counterfeiting or duplication of the license
22 for fraudulent purposes; and

23 (2) common machine-readable technology that
24 has defined minimum data elements."

25 Section 11. A new section of Chapter 66, Article 5 NMSA

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1 1978 is enacted to read:

2 "[NEW MATERIAL] VERIFICATION OF REQUIRED DOCUMENTS.--

3 A. Before issuing a temporary license, provisional
4 license, driver's license, instruction permit or identification
5 card to an applicant, the department shall verify with the
6 issuing agency or entity the issuance, validity and
7 completeness of each document an applicant is required to
8 submit pursuant to Sections 66-5-9 and 66-5-402 NMSA 1978. The
9 department shall verify the social security account number of
10 an applicant with the federal social security administration.

11 B. The department shall not accept any foreign
12 document, other than an official country passport, to meet a
13 requirement pursuant to Sections 66-5-9 and 66-5-402 NMSA 1978."

14 Section 12. A new section of Chapter 66, Article 5 NMSA
15 1978 is enacted to read:

16 "[NEW MATERIAL] TRAINING AND SECURITY CLEARANCE
17 REQUIREMENTS.--

18 A. The department shall establish security
19 clearance requirements for persons authorized by the department
20 to manufacture or produce driver's licenses or identification
21 cards. A person subject to the security clearance requirements
22 shall satisfy those requirements prior to January 1, 2007.

23 B. The department shall establish a fraudulent
24 document recognition training program. An employee of the
25 department engaged in the issuance of driver's licenses or

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1 identification cards shall complete a fraudulent document
2 recognition training program prior to January 1, 2007.

3 C. Rules established by the department to carry out
4 the provisions of this section shall meet applicable federal
5 requirements for the security of driver's licenses and
6 identification cards."

7 Section 13. TEMPORARY PROVISION--TRANSITION.--

8 A. Temporary licenses, provisional licenses,
9 driver's licenses, instructional permits and identification
10 cards issued pursuant to Chapter 66, Article 5 NMSA 1978 prior
11 to January 1, 2007 and expiring after March 11, 2008 shall
12 remain valid until March 11, 2008.

13 B. Holders of a license, permit or identification
14 card subject to Subsection A of this section may apply for a
15 new license, permit or identification card pursuant to this act
16 beginning January 1, 2007. The taxation and revenue department
17 shall waive the required application and issuance fees for
18 holders pursuant to this subsection; provided that the new
19 license, permit or identification card issued by the taxation
20 and revenue department shall expire on the same date in which
21 the holder's license, permit or identification card issued
22 prior to January 1, 2007 was set to expire.

23 C. Between July 1, 2006 and December 31, 2006, the
24 taxation and revenue department shall notify by mail all
25 holders of temporary licenses, provisional licenses, driver's

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1 licenses, instructional permits and identification cards of the
2 requirements for application and licensure imposed by this act.

3 Section 14. APPROPRIATION.--Ten million dollars
4 (\$10,000,000) is appropriated from the general fund to the
5 taxation and revenue department in fiscal years 2006 and 2007
6 to carry out the provisions of this act. The appropriation
7 shall also be used to bring New Mexico into compliance with the
8 security, fraud prevention, data retention, data storage and
9 database linking requirements imposed by Title II of the
10 federal REAL ID Act of 2005. Any unexpended or unencumbered
11 balance remaining at the end of fiscal year 2007 shall revert
12 to the general fund.

13 Section 15. EFFECTIVE DATE.--The effective date of the
14 provisions of Sections 12 through 14 of this act is March 1,
15 2006. The effective date of the provisions of Sections 1
16 through 11 of this act is January 1, 2007.

17 Section 16. EMERGENCY.--It is necessary for the public
18 peace, health and safety that this act take effect immediately.