

1 SENATE BILL 748

2 **47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

3 INTRODUCED BY

4 Rod Adair

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6  
7  
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9  
10 AN ACT

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

23  
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

25 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                    [~~C.~~] 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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- 1                                   (5) a document evidencing proof that the
- 2 applicant:
- 3                                   (a) is a citizen of the United States;
- 4                                   (b) is an alien lawfully admitted for
- 5 permanent or temporary residence in the United States;
- 6                                   (c) has conditional permanent resident
- 7 status in the United States;
- 8                                   (d) has an approved application for
- 9 asylum in the United States or has entered into the United
- 10 States in refugee status;
- 11                                   (e) has a valid, unexpired nonimmigrant
- 12 visa or nonimmigrant visa status for entry into the United
- 13 States;
- 14                                   (f) has a pending application for asylum
- 15 in the United States;
- 16                                   (g) has approved deferred action status;
- 17 or
- 18                                   (h) has a pending application for
- 19 adjustment status to that of an alien lawfully admitted for
- 20 permanent residence or conditional permanent resident status in
- 21 the United States."

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

24                   "66-5-404. DUPLICATE CARDS.--In the event an  
25 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.