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HOUSE BILL 161

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO DRIVER'S LICENSES; LIMITING ISSUANCE OF DRIVER'S
LICENSES AND IDENTIFICATION CARDS TO THOSE FOREIGN NATIONALS
WITH AN AUTHORIZED PERIOD OF ADMISSION; REDUCING THE VALIDITY
PERIOD OF DRIVER'S LICENSES AND IDENTIFICATION CARDS FOR
FOREIGN NATIONALS TO THEIR AUTHORIZED PERIOD OF ADMISSION;
PROVIDING PENALTIES; DECLARING AN EMERGENCY.

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,
PROVISIONAL LICENSE OR INSTRUCTION PERMIT.--

A. An application for an instruction permit,
provisional license or driver's license shall be made upon a
form furnished by the department. An application shall be

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1 accompanied by the proper fee. For permits, provisional
2 licenses or driver's licenses other than those issued pursuant
3 to the New Mexico Commercial Driver's License Act, submission
4 of a complete application with payment of the fee entitles the
5 applicant to not more than three attempts to pass the
6 examination within a period of six months from the date of
7 application.

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

25 C. In addition to the requirements of Subsection B

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1 of this section, an application by a foreign national shall
2 contain the unique identifying number of the foreign national's
3 valid passport, valid visa or arrival-departure record or other
4 documents issued by the federal government and the expiration
5 date of the foreign national's authorized period of admission
6 or extension of stay as demonstrated on the foreign national's
7 valid passport, valid visa or arrival-departure record or other
8 document issued by the federal government. The department may
9 issue to an eligible foreign national applicant a driver's
10 license that is valid for a period no longer than the duration
11 of the foreign national's authorized period of admission or
12 extension of stay and that shall state that it is term limited.

13 ~~[G-]~~ D. An applicant shall indicate whether the
14 applicant has been convicted of driving while under the
15 influence of intoxicating liquor or drugs in this state or in
16 any other jurisdiction. Failure to disclose any such
17 conviction prevents the issuance of a driver's license,
18 provisional license, temporary license or instruction permit
19 for a period of one year if the failure to disclose is
20 discovered by the department prior to issuance. If the
21 nondisclosure is discovered by the department subsequent to
22 issuance, the department shall revoke the driver's license,
23 provisional license, temporary license or instruction permit
24 for a period of one year. Intentional and willful failure to
25 disclose, as required in this subsection, is a misdemeanor.

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

4 (1) successfully completed a driver education
5 course approved by the bureau that included a DWI prevention
6 and education component. The bureau may accept verification of
7 driver education course completion from another state if the
8 driver education course substantially meets the requirements of
9 the bureau for a course offered in New Mexico;

10 (2) had a provisional license for at least the
11 twelve-month period immediately preceding the date of the
12 application for the driver's license; provided that thirty days
13 shall be added to the twelve-month period for each adjudication
14 or conviction of a traffic violation committed during the time
15 the person was driving with a provisional license;

16 (3) complied with restrictions on that
17 license;

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

20 (5) not been adjudicated for an offense
21 involving the use of alcohol or drugs during the twelve-month
22 period immediately preceding the date of the application for
23 the driver's license and that there are no pending
24 adjudications alleging an offense involving the use of alcohol
25 or drugs at the time of application.

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1 ~~[E-]~~ F. An applicant eighteen years of age or over,
2 but under twenty-five years of age, who is making an
3 application to be granted a first New Mexico driver's license
4 shall submit evidence with the application that the applicant
5 has successfully completed a bureau-approved DWI prevention and
6 education program.

7 ~~[F-]~~ G. An applicant twenty-five years of age or
8 over who has been convicted of driving under the influence of
9 intoxicating liquor or drugs and who is making an application
10 to be granted a first New Mexico driver's license shall submit
11 evidence with the application that the applicant has
12 successfully completed a bureau-approved DWI prevention and
13 education program.

14 ~~[G-]~~ H. Whenever an application is received from a
15 person previously licensed in another jurisdiction, the
16 department may request a copy of the driver's record from the
17 other jurisdiction. When received, the driver's record may
18 become a part of the driver's record in this state with the
19 same effect as though entered on the driver's record in this
20 state in the original instance.

21 ~~[H-]~~ I. Whenever the department receives a request
22 for a driver's record from another licensing jurisdiction, the
23 record shall be forwarded without charge.

24 ~~[I-]~~ J. This section does not apply to driver's
25 licenses issued pursuant to the New Mexico Commercial Driver's

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1 License Act.

2 K. The secretary shall promulgate rules necessary
3 to implement and enforce the provisions of this section."

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

6 "66-5-15. LICENSES ISSUED TO APPLICANTS.--The department
7 shall, upon payment of the required fee, issue to every
8 qualified applicant a driver's license as applied for. The
9 license shall bear the full legal name, date of birth, sex,
10 current New Mexico physical [~~or mailing~~] address, a full-face
11 or front-view digital photograph of the license holder, [~~and~~] a
12 unique driver's license number, a date of issuance, an
13 expiration date, a brief description of the licensee and the
14 signature of the licensee. A license shall not be valid unless
15 it bears the signature of the licensee."

16 SECTION 3. Section 66-5-21 NMSA 1978 (being Laws 1978,
17 Chapter 35, Section 243, as amended by Laws 2010, Chapter 42,
18 Section 2 and by Laws 2010, Chapter 70, Section 2) is amended
19 to read:

20 "66-5-21. EXPIRATION OF LICENSE--LIMITED ISSUANCE
21 PERIOD--FOUR-YEAR ISSUANCE PERIOD--EIGHT-YEAR ISSUANCE PERIOD--
22 RENEWAL.--

23 A. Except as provided in Subsection B [~~or~~], D or E
24 of this section, Section 66-5-19 NMSA 1978 and Section 66-5-67
25 NMSA 1978, all driver's licenses shall be issued for a period

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1 of four years, and each license shall expire thirty days after
2 the applicant's birthday in the fourth year after the effective
3 date of the license or shall expire thirty days after the
4 applicant's seventy-fifth birthday. A license issued pursuant
5 to Section 66-5-19 NMSA 1978 shall expire thirty days after the
6 applicant's birthday in the year in which the license expires.
7 Each license is renewable within ninety days prior to its
8 expiration or at an earlier date approved by the department.
9 The fee for the license shall be as provided in Section 66-5-44
10 NMSA 1978. The department may provide for renewal by mail or
11 telephonic or electronic means of a driver's license issued
12 pursuant to the provisions of this subsection, pursuant to
13 regulations adopted by the department that ensure adequate
14 security measures to safeguard personal information that is
15 obtained in the issuance of a driver's license. The department
16 may require an examination upon renewal of the driver's
17 license.

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

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

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

25 (3) will not reach the age of seventy-five

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1 during the last four years of the eight-year license period or
2 reach the age of twenty-one during any year within the term of
3 the license.

4 C. A driver's license issued pursuant to the
5 provisions of Subsection B of this section shall expire thirty
6 days after the applicant's birthday in the eighth year after
7 the effective date of the license.

8 D. A driver's license issued prior to an
9 applicant's twenty-first birthday shall expire thirty days
10 after the applicant's twenty-first birthday. A driver's
11 license issued prior to an applicant's twenty-first birthday
12 may be issued for a period of up to five years.

13 E. A driver's license issued to a foreign national
14 shall expire on the earlier of:

15 (1) thirty days after the applicant's
16 twenty-first birthday if issued prior to the applicant's
17 twenty-first birthday;

18 (2) thirty days after the applicant's
19 seventy-fifth birthday;

20 (3) thirty days after the applicant's birthday
21 on the fourth year after the effective date of the license or
22 on the eighth year after the effective date of the license if
23 the applicant opted for a period of eight years pursuant to
24 Subsection B of this section; or

25 (4) the date of the foreign national's

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1 termination of authorized period of admission or extension of
2 stay as demonstrated on the foreign national's valid passport,
3 valid visa or arrival-departure record or other document issued
4 by the federal government; provided that if that date cannot be
5 determined by the department, the driver's license shall expire
6 one year after the effective date of the license.

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

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

15 "66-5-37. UNLAWFUL USE OF LICENSE.--

16 A. It is a misdemeanor for any person to:

17 [A-] (1) display or cause or permit to be
18 displayed or have in [his] the person's possession any
19 canceled, revoked or suspended driver's license or permit or
20 commercial driver's license or permit;

21 [B-] (2) lend [his] the person's driver's
22 license or permit or commercial driver's license or permit to
23 any other person or knowingly permit the use of [his] the
24 person's license or permit by another;

25 (3) permit any unlawful use of the driver's

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1 license or permit or commercial driver's license or permit
2 issued to, or received by, the person;

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

6 (5) do any other act forbidden or fail to
7 perform any other act required by Sections 66-5-1 through
8 66-5-47 NMSA 1978 or the provisions of the New Mexico
9 Commercial Driver's License Act.

10 B. It is a felony for any person to:

11 ~~[D.]~~ (1) fail or refuse to surrender to the
12 division upon its lawful demand any driver's license or permit
13 or commercial driver's license or permit ~~which~~ that has been
14 suspended, revoked or canceled;

15 ~~[E.—use]~~ (2) knowingly or willfully provide a
16 false or fictitious name or document in any application for a
17 driver's license or permit or commercial driver's license or
18 permit or knowingly make a false statement or knowingly conceal
19 a material fact or otherwise commit a fraud in any such
20 application;

21 ~~[F.—permit any unlawful use of the driver's license~~
22 ~~or permit or commercial driver's license or permit issued to~~
23 ~~him; or~~

24 ~~G. do any act forbidden or fail to perform any act~~
25 ~~required by Sections 66-5-1 through 66-5-47 NMSA 1978 or the~~

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1 ~~provisions of the New Mexico Commercial Driver's License Act]~~
2 or

3 (3) induce or solicit another person or
4 conspire with another person to violate this subsection."

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

7 "66-5-401. IDENTIFICATION CARDS--APPLICATION--

8 A. A person who does not have a valid New Mexico
9 driver's license may be issued an identification card by the
10 department certified by the applicant as to true name, correct
11 age and other identifying data as the department may require.
12 An application for an identification card shall be made upon a
13 form furnished by the department. An application shall contain
14 the applicant's full legal name; social security number, except
15 for applicants ineligible for a social security number; date of
16 birth; sex; and New Mexico physical address. Every application
17 for an identification card shall be signed by the applicant or
18 the applicant's parent or guardian. The secretary may, for
19 good cause, revoke or deny the issuance of an identification
20 card.

21 B. In addition to the requirements of Subsection A
22 of this section, an application by a foreign national shall
23 contain the unique identifying number of the foreign national's
24 valid passport, valid visa or other arrival-departure record or
25 document issued by the federal government and the expiration

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1 date of the foreign national's authorized period of admission
2 or extension of stay as demonstrated on the foreign national's
3 valid passport, valid visa or arrival-departure record or other
4 document issued by the federal government. The department may
5 issue to an eligible foreign national applicant an
6 identification card that is valid only for the duration of the
7 foreign national's authorized period of admission or extension
8 of stay and that shall state that it is term limited.

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

20 SECTION 6. Section 66-5-402 NMSA 1978 (being Laws 1978,
21 Chapter 35, Section 329, as amended) is amended to read:

22 "66-5-402. PERSONS ELIGIBLE FOR IDENTIFICATION CARDS.--
23 The department shall issue an identification card only to ~~[A-]~~
24 a person who is a New Mexico resident and who does not have a
25 valid New Mexico driver's license and only upon the furnishing

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1 of a birth certificate or its certified copy, [~~a certificate of~~
2 ~~baptism~~] a valid passport or other evidence that the department
3 deems sufficient as documentary evidence of the age and
4 identity of the person [~~or~~

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

9 SECTION 7. Section 66-5-403 NMSA 1978 (being Laws 1973,
10 Chapter 269, Section 3, as amended by Laws 2010, Chapter 42,
11 Section 3 and by Laws 2010, Chapter 70, Section 3) is amended
12 to read:

13 "66-5-403. EXPIRATION OF IDENTIFICATION CARDS--DURATION--
14 RENEWAL.--

15 A. Except as provided in Subsection B [~~or~~], C or D
16 of this section, every identification card shall be issued for
17 a period not to exceed four years and shall expire on the last
18 day of the month of the identified person's birth in the fourth
19 year after the effective date of the identification card.

20 B. An identification card may be renewed within
21 ninety days prior to its expiration or at an earlier date
22 approved by the department. An identification card may be
23 renewed by mail or telephonic or electronic means pursuant to
24 regulations adopted by the department. The regulations shall
25 ensure adequate security measures to safeguard personal

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1 information that is obtained in the issuance of an
2 identification card.

3 C. At the option of the applicant for an
4 identification card, a card may be issued for a period of eight
5 years, provided that the applicant pays the amount required for
6 an identification card issued for a term of eight years. An
7 identification card issued pursuant to the provisions of this
8 subsection shall expire on the last day of the month of the
9 applicant's birth in the eighth year after the effective date
10 of the identification card. The identification card may be
11 renewed within ninety days prior to its expiration.

12 D. An identification card issued to a foreign
13 national shall expire on the earlier of:

14 (1) the last day of the month of the
15 identified person's birthday in the fourth year after the
16 effective date of the identification card or on the eighth year
17 after the effective date of the identification card if the
18 applicant opted for a period of eight years pursuant to
19 Subsection C of this section; or

20 (2) the date of the foreign national's
21 termination of authorized period of admission or extension of
22 stay as demonstrated on the foreign national's valid passport,
23 valid visa or arrival-departure record or other document issued
24 by the federal government; provided that if that date cannot be
25 determined by the department, the identification card shall

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1 expire one year after the effective date of the identification
2 card."

3 SECTION 8. Section 66-5-405 NMSA 1978 (being Laws 1978,
4 Chapter 35, Section 332, as amended) is amended to read:

5 "66-5-405. CONTENTS OF CARD.--The identification card
6 shall ~~[adequately describe the registrant and bear his picture~~
7 ~~that shall show a full face or front view for all registrants~~
8 ~~and]~~ bear the full legal name, date of birth, sex, current New
9 Mexico physical address, a full-face or front-view digital
10 photograph of the identification card holder, a unique
11 identification card number, a date of issuance, an expiration
12 date, a brief description of the identification card holder and
13 a signature of the holder, and the identification card shall
14 indicate donor status. All identification cards of persons
15 under the age of twenty-one years shall have a printed legend
16 indicating that the person is under twenty-one. The
17 identification card shall bear the following statement:

18 "STATE OF NEW MEXICO IDENTIFICATION

19 CARD NO. _____

20 This card is provided solely for the purpose of establishing
21 that the bearer described on the card was not the holder of a
22 New Mexico driver's license as of the date of issuance of this
23 card. This identification card is not a license. ISSUED FOR
24 IDENTIFICATION PURPOSES ONLY".

25 SECTION 9. Section 66-5-409 NMSA 1978 (being Laws 1991,

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1 Chapter 160, Section 13) is amended to read:

2 "66-5-409. UNLAWFUL USE OF IDENTIFICATION CARD.--

3 A. It is a misdemeanor for any person to:

4 (1) use or possess an altered, forged or
5 fictitious identification card;

6 (2) alter or forge an identification card or
7 make a fictitious identification card;

8 (3) lend the person's identification card to
9 any other person or to knowingly permit the use of the person's
10 identification card by another;

11 (4) display or represent as one's own any
12 identification card not issued to the person; or

13 (5) ~~[use]~~ make or permit any unlawful use of
14 the identification card issued to, or received or obtained by,
15 the person.

16 B. It is a felony for any person to:

17 (1) knowingly or willfully provide a false or
18 fictitious name or document in any application for an
19 identification card or knowingly make a false statement or
20 conceal a material fact or otherwise commit a fraud in any such
21 application; ~~[or~~

22 ~~(6) make or permit any unlawful use of the~~
23 ~~identification card issued to the person]; or~~

24 (2) induce or solicit another person, or
25 conspire with another person, to violate this subsection.

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1 [~~B-~~] C. For the purposes of this section,
2 "identification card" means an identification card issued by
3 the department pursuant to Section 66-5-401 or 66-5-404 NMSA
4 1978."

5 SECTION 10. Section 66-8-1.1 NMSA 1978 (being Laws 2007,
6 Chapter 319, Section 65) is amended to read:

7 "66-8-1.1. FRAUD [~~IN OBTAINING DOCUMENTS ISSUED~~] RELATED
8 TO THE ISSUANCE OF DOCUMENTS BY THE DIVISION--PENALTY.--

9 A. It is a felony for a [~~person~~] department
10 employee or private retail agent or other contractor of the
11 division to:

12 (1) knowingly issue an identification card,
13 driver's license, vehicle or vessel registration or vehicle or
14 vessel title to a person who is not lawfully entitled to
15 issuance of that document;

16 (2) knowingly accept and use fraudulent
17 documents as a basis for issuing an identification card,
18 driver's license, vehicle or vessel registration or vehicle or
19 vessel title;

20 (3) knowingly alter a record of an
21 identification card, driver's license, vehicle or vessel
22 registration or vehicle or vessel title without legal
23 justification; or

24 (4) solicit or accept, directly or indirectly,
25 anything of value with the intent to influence a decision or

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1 action on an identification card, a driver's license, a vehicle
2 or vessel registration or a vehicle or vessel title.

3 B. A person convicted of violating Subsection A of
4 this section is guilty of a [~~fourth~~] third degree felony and
5 shall be sentenced pursuant to the provisions of Section
6 31-18-15 NMSA 1978."

7 SECTION 11. A new section of the Motor Vehicle Code is
8 enacted to read:

9 "[NEW MATERIAL] MANDATORY CANCELLATION OF DRIVER'S LICENSE
10 ISSUED TO A PERSON WITHOUT A SOCIAL SECURITY NUMBER.--

11 A. The department shall identify any person who was
12 issued an instruction permit, a driver's license or a
13 provisional license prior to the effective date of this 2013
14 act without the person providing the person's social security
15 number. The department shall provide written notice to the
16 person that the instruction permit, driver's license or
17 provisional license will be canceled no later than December 31,
18 2013 if the person fails to submit the person's social security
19 number or submit a new application pursuant to Section 66-5-9
20 NMSA 1978.

21 B. Thirty days prior to the cancellation of the
22 instruction permit, driver's license or provisional license,
23 the department shall provide written notice to the person that
24 the instruction permit, driver's license or provisional license
25 will be canceled if the person's social security number or new

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1 application, pursuant to Section 66-5-9 NMSA 1978, is not
2 submitted within thirty days.

3 C. Upon cancellation, the department shall notify
4 the person in writing of the cancellation of that person's
5 instruction permit, driver's license or provisional license.
6 Within twenty days of receiving notice of cancellation, a
7 person may request that the department rescind the order of
8 cancellation and afford the person an opportunity to show that
9 the person has submitted the person's social security number or
10 individual tax identification number and proof of the person's
11 identity and proof of New Mexico residency pursuant to Section
12 66-5-9 NMSA 1978.

13 D. Within twenty days upon receipt of a request to
14 rescind the order of cancellation, the department shall provide
15 the person who made the request with an opportunity to show
16 that the person has submitted that person's social security
17 number or individual tax identification number and proof of the
18 person's identity and proof of New Mexico residency, pursuant
19 to Section 66-5-9 NMSA 1978, in the county in which the person
20 resides unless the department and the person agree to another
21 county. The secretary or the secretary's duly authorized agent
22 may administer oaths. Upon a showing that the person has
23 provided a social security number or individual tax
24 identification number and proof of the person's identity and
25 proof of New Mexico residency, the department shall reinstate

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1 the instruction permit, driver's license or provisional license
2 for a period pursuant to Section 66-5-21 NMSA 1978.

3 E. Issuance of a written notice pursuant to
4 Subsection A of this section shall not affect the right of a
5 person to renew a driver's license at the expiration of its
6 term pursuant to Section 66-5-21 NMSA 1978; provided, however,
7 that renewal of a license shall not relieve a licensee of the
8 obligation to respond to that notice or preclude the department
9 from canceling a license for failure to respond to that notice
10 pursuant to this section.

11 F. Upon cancellation of a person's instruction
12 permit, driver's license or provisional license, the department
13 shall reimburse to the person the amount of the fee paid for
14 the instruction permit, driver's license or provisional license
15 prorated for the remaining period that the instruction permit,
16 driver's license or provisional license would have been valid
17 but for its cancellation."

18 SECTION 12. SEVERABILITY.--If any part or application of
19 this act is held invalid, the remainder or its application to
20 other situations or persons shall not be affected.

21 SECTION 13. EMERGENCY.--It is necessary for the public
22 peace, health and safety that this act take effect immediately.