

1 SENATE BILL 578

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Pete Campos

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10 AN ACT

11 RELATING TO DRIVER'S LICENSES; PROVIDING FOR A TWO-TIERED  
12 SYSTEM OF DRIVING PRIVILEGES; PROVIDING FOR A TEMPORARY  
13 DRIVER'S LICENSE OF TWO YEARS' DURATION FOR CERTAIN FOREIGN  
14 NATIONALS; REQUIRING A SOCIAL SECURITY NUMBER FROM ELIGIBLE  
15 APPLICANTS FOR CERTAIN DRIVER'S LICENSES; PROVIDING FOR  
16 DRIVER'S LICENSES TO BE ACCEPTED BY FEDERAL AGENCIES FOR  
17 OFFICIAL FEDERAL PURPOSES; LIMITING THE DURATION OF DRIVER'S  
18 LICENSES OF FOREIGN NATIONALS; REQUIRING ADDITIONAL  
19 IDENTIFICATION AND PROOF OF RESIDENCY FOR FOREIGN NATIONALS;  
20 INCREASING PENALTIES AND IMPOSING NEW PENALTIES.

21  
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

25 "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.  
10 The department shall accept an application for a driver's  
11 license not intended to be accepted by federal agencies for  
12 official federal purposes regardless of immigration status;  
13 provided that, for that application, the department shall deem  
14 an applicant who presents a social security number to be a  
15 United States national or legal permanent resident. An  
16 applicant who is a foreign national and who does not provide a  
17 social security number or proof of authorized presence in the  
18 United States shall only apply for a driver's license not  
19 intended to be accepted by federal agencies for official  
20 federal purposes.

21 D. An application by a foreign national for a  
22 driver's license that meets federal requirements to be accepted  
23 by federal agencies for official federal purposes shall contain  
24 the unique identifying number of the foreign national's valid  
25 passport, valid visa or other arrival-departure record or

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

10 E. For an application for a driver's license not  
11 intended to be accepted by federal agencies for official  
12 federal purposes by a foreign national, the secretary shall:

13 (1) accept a social security number or an  
14 individual tax identification number, or a document that the  
15 secretary has authorized as an acceptable substitute for an  
16 individual tax identification number;

17 (2) accept one proof of identity that shall be  
18 satisfied by:

19 (a) a birth certificate, either an  
20 original or a certified copy, including a foreign birth  
21 certificate with a notarized English translation, if necessary;

22 (b) a form of photo identification that  
23 shall be satisfied by a passport from the applicant's country  
24 of citizenship or an identification card, issued by the  
25 Consulate of Mexico in Albuquerque, New Mexico, the Consulate-

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1 General of Mexico in El Paso, Texas, or such other foreign  
2 consulate with which the department has established a reliable  
3 method of verifying the authenticity of the identification  
4 card; or

5 (c) another document authorized by the  
6 secretary as documentary evidence of proof of identity;

7 (3) accept two independent forms of proof of  
8 the applicant's residency in New Mexico for the last thirty  
9 days that shall be satisfied by any two of the following:

10 (a) utility bills;

11 (b) bank statements;

12 (c) receipts for a mortgage or real  
13 estate contract;

14 (d) rental agreements;

15 (e) New Mexico school records; or

16 (f) another document authorized by the  
17 secretary as documentary evidence of proof of residency; and

18 (4) require a signed and notarized declaration  
19 made by the applicant that all documents provided by the  
20 applicant with the application are genuine and accurate.

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 [~~F.~~] 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. By December 1, 2013, the department shall  
24 establish two distinct driver's licenses. A driver's license  
25 issued to a licensee that meets federal requirements to be

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1 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. A driver's license that is not  
7 intended to be accepted by federal agencies for official  
8 federal purposes shall maintain the current license color and  
9 design."

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

14 "66-5-21. EXPIRATION OF LICENSE--LIMITED ISSUANCE  
15 PERIOD--FOUR-YEAR ISSUANCE PERIOD--EIGHT-YEAR ISSUANCE PERIOD--  
16 RENEWAL.--

17 A. Except as provided in Subsection B, [~~or~~] D, E or  
18 F of this section, Section 66-5-19 NMSA 1978 and Section  
19 66-5-67 NMSA 1978, all driver's licenses shall be issued for a  
20 period of four years, and each license shall expire thirty days  
21 after the applicant's birthday in the fourth year after the  
22 effective date of the license or shall expire thirty days after  
23 the applicant's seventy-fifth birthday. A license issued  
24 pursuant to Section 66-5-19 NMSA 1978 shall expire thirty days  
25 after the applicant's birthday in the year in which the license

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1 expires. Each license is renewable within ninety days prior to  
2 its expiration or at an earlier date approved by the  
3 department. The fee for the license shall be as provided in  
4 Section 66-5-44 NMSA 1978. The department may provide for  
5 renewal by mail or telephonic or electronic means of a driver's  
6 license issued pursuant to the provisions of this subsection,  
7 pursuant to regulations adopted by the department that ensure  
8 adequate security measures to safeguard personal information  
9 that is obtained in the issuance of a driver's license. The  
10 department may require an examination upon renewal of the  
11 driver's license.

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

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

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

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

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

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1 the effective date of the license.

2 D. A driver's license issued prior to an  
3 applicant's twenty-first birthday shall expire thirty days  
4 after the applicant's twenty-first birthday. A driver's  
5 license issued prior to an applicant's twenty-first birthday  
6 may be issued for a period of up to five years.

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

11 (1) thirty days after the applicant's twenty-  
12 first birthday, if issued prior to the applicant's twenty-first  
13 birthday;

14 (2) thirty days after the applicant's seventy-  
15 fifth birthday;

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

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

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1 determined by the department, the driver's license shall expire  
2 one year after the effective date of the license.

3 F. A driver's license that is not intended to be  
4 accepted by federal agencies for official federal purposes  
5 issued to a foreign national who does not provide a social  
6 security number or proof of authorized presence in the United  
7 States shall expire on 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; or

13 (3) thirty days after the applicant's birthday  
14 on the second year after the effective date of the license.

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

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

23 "66-5-37. UNLAWFUL USE OF LICENSE.--It is a misdemeanor  
24 for any person to:

25 A. display or cause or permit to be displayed or

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1 have in [~~his~~] the person's possession any canceled, revoked or  
2 suspended driver's license or permit or commercial driver's  
3 license or permit;

4 B. lend [~~his~~] the person's driver's license or  
5 permit or commercial driver's license or permit to any other  
6 person or knowingly permit the use of [~~his~~] the person's  
7 license or permit by another;

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

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

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

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

23 G. do any act forbidden or fail to perform any act  
24 required by Sections 66-5-1 through 66-5-47 NMSA 1978 or the  
25 provisions of the New Mexico Commercial Driver's License Act."

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

3           "66-8-1.1. FRAUD [~~IN OBTAINING DOCUMENTS ISSUED~~] RELATED  
4 TO THE ISSUANCE OF DOCUMENTS BY THE DIVISION--[~~PENALTY~~]  
5 PENALTIES.--

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

8                       (1) knowingly issue an identification card,  
9 driver's license, vehicle or vessel registration or vehicle or  
10 vessel title to a person who is not lawfully entitled to  
11 issuance of that document;

12                      (2) knowingly accept and use fraudulent  
13 documents as a basis for issuing an identification card,  
14 driver's license, vehicle or vessel registration or vehicle or  
15 vessel title;

16                      (3) knowingly alter a record of an  
17 identification card, driver's license, vehicle or vessel  
18 registration or vehicle or vessel title without legal  
19 justification; or

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

24           B. It is a felony for an applicant to knowingly or  
25 willfully provide a false name, false information or fraudulent

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1 document required by Section 66-5-9 NMSA 1978 or otherwise  
2 commit a fraud in an application submitted pursuant to Section  
3 66-5-9 NMSA 1978.

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

5 (1) receive or obtain an instruction permit,  
6 driver's license or provisional license and then transfer the  
7 instruction permit, driver's license or provisional license to  
8 another person who is not lawfully entitled to that document;  
9 or

10 (2) induce or solicit another person, or  
11 conspire with another person, to violate Subsection A or B of  
12 this section.

13 D. A person convicted of violating Subsection A of  
14 this section is guilty of a third degree felony and shall be  
15 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
16 1978.

17 ~~[B-]~~ E. A person convicted of violating Subsection  
18 B or C of this section is guilty of a fourth degree felony and  
19 shall be sentenced pursuant to the provisions of Section  
20 31-18-15 NMSA 1978."

21 **SECTION 6. SEVERABILITY.**--If any part or application of  
22 this act is held invalid, the remainder or its application to  
23 other situations or persons shall not be affected.

24 **SECTION 7. EFFECTIVE DATE.**--The effective date of the  
25 provisions of this act is July 1, 2013.

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