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HOUSE BILL 94

**52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

INTRODUCED BY

Stephanie Garcia Richard and Paul C. Bandy

AN ACT

RELATING TO COMPLIANCE WITH THE FEDERAL REAL ID ACT OF 2005;  
PROVIDING FOR THE TAXATION AND REVENUE DEPARTMENT TO ISSUE A  
REAL ID CARD THAT MEETS THE REQUIREMENTS OF THE FEDERAL REAL ID  
ACT OF 2005 AND THAT IS DISTINGUISHABLE FROM A DRIVER'S LICENSE  
AND AN IDENTIFICATION CARD; MARKING DRIVER'S LICENSES AND  
IDENTIFICATION CARDS TO DENOTE NONCOMPLIANCE WITH THE FEDERAL  
REAL ID ACT OF 2005; PROVIDING FOR FEES; IMPOSING PENALTIES;  
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  
1978 is enacted to read:

"[NEW MATERIAL] REAL ID CARDS--PERSONS ELIGIBLE--  
APPLICATION--RENEWAL--DURATION--CONTENTS--DUPLICATES--FEES--  
PENALTIES.--

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1           A. The department may issue a REAL ID card only to  
2 a person who is a New Mexico resident and who has lawful  
3 status.

4           B. An application for a REAL ID card or a renewal  
5 of a REAL ID card shall be made upon a form furnished by the  
6 department. An application shall contain the applicant's full  
7 legal name; social security number, except for an applicant  
8 ineligible for a social security number; date of birth; sex;  
9 and current New Mexico residence address and shall briefly  
10 describe the applicant. The secretary shall establish by  
11 regulation documents that may be accepted as evidence of the  
12 residency of the applicant. A person applying for or renewing  
13 a REAL ID card shall provide documentation required by the  
14 federal government of the applicant's identity, date of birth,  
15 social security number, if applicable, address of current  
16 residence and lawful status. The department shall verify the  
17 applicant's lawful status and social security number, if  
18 applicable, through a method approved by the federal  
19 government. Every application for a REAL ID card shall be  
20 signed by the applicant or the applicant's parent or guardian.  
21 The secretary may, for good cause, revoke or deny the issuance  
22 of a REAL ID card.

23           C. An application by a foreign national for a REAL  
24 ID card or renewal of a REAL ID card shall contain the unique  
25 identifying number and expiration date, if applicable, of the

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1 foreign national's valid passport, valid visa, employment  
2 authorization card issued under the applicant's approved  
3 deferred action status or other arrival-departure record or  
4 document issued by the federal government that conveys lawful  
5 status. The department may issue to an eligible foreign  
6 national applicant a REAL ID card that is valid only for the  
7 duration of the applicant's lawful status; provided that, if  
8 that date cannot be determined by the department and the  
9 applicant is not a legal permanent resident, the REAL ID card  
10 shall expire one year after the effective date of the REAL ID  
11 card.

12 D. Except as provided in Subsections E through G of  
13 this section, every REAL ID card shall be issued for a period  
14 not to exceed four years and shall expire on the last day of  
15 the month of the identified person's birth in the fourth year  
16 after the effective date of the REAL ID card.

17 E. A REAL ID card may be renewed within ninety days  
18 prior to its expiration or at an earlier date approved by the  
19 department. A REAL ID card may be renewed by mail or  
20 telephonic or electronic means pursuant to regulations adopted  
21 by the department, except the department shall not renew by  
22 mail or telephonic or electronic means a REAL ID card if  
23 prohibited by state or federal law or regulation. The  
24 regulations shall ensure adequate security measures to  
25 safeguard personal information that is obtained in the issuance

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1 of a REAL ID card.

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

11 G. A REAL ID card issued to a foreign national  
12 shall expire on the earlier of:

13 (1) the last day of the month of the  
14 applicant's birth in the fourth year after the effective date  
15 of the REAL ID card or in the eighth year after the effective  
16 date of the REAL ID card if the applicant opted for a period of  
17 eight years pursuant to Subsection F of this section; or

18 (2) the expiration date of the applicant's  
19 lawful status; provided that, if that date cannot be determined  
20 by the department and the applicant is not a legal permanent  
21 resident, the REAL ID card shall expire one year after the  
22 effective date of the REAL ID card.

23 H. All REAL ID cards shall bear the full legal  
24 name, date of birth, sex, current New Mexico residence address,  
25 a full-face or front-view digital photograph of the REAL ID

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1 card holder, a unique REAL ID card number, a date of issuance,  
2 an expiration date, a brief description of the REAL ID card  
3 holder and the signature of the holder. All REAL ID cards of  
4 persons under the age of twenty-one years shall have a printed  
5 legend indicating that the person is under twenty-one.

6 I. A REAL ID card issued to a foreign national who  
7 fails to prove that the foreign national's lawful status will  
8 not expire prior to the date on which the REAL ID card applied  
9 for would expire but for the person being a foreign national  
10 shall clearly indicate on its face and in the machine readable  
11 zone that it is temporary and shall bear the word "TEMPORARY".

12 J. In the event a REAL ID card issued pursuant to  
13 this section is lost, stolen, destroyed or mutilated or the  
14 name or the address of the person to whom the REAL ID card was  
15 issued is changed, the person to whom the REAL ID card was  
16 issued may obtain a replacement upon furnishing satisfactory  
17 proof of the same documentary evidence required to obtain an  
18 original REAL ID card. A person who loses a REAL ID card and  
19 who, after obtaining a replacement, finds the original REAL ID  
20 card shall immediately surrender the original card to the  
21 department.

22 K. No public entity shall be liable for any loss or  
23 injury resulting directly or indirectly from false or  
24 inaccurate information contained in a REAL ID card issued by  
25 the department.

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1           L. No person shall be held responsible in a court  
2 of law for any act or failure to act that is directly  
3 attributable to the person's reliance upon the information  
4 contained in a REAL ID card issued pursuant to this section;  
5 provided that the person made a reasonable attempt to ascertain  
6 that the information is correct, the REAL ID card has not been  
7 altered and the REAL ID card belongs to the person presenting  
8 it.

9           M. Whenever a person, after applying for or  
10 receiving a REAL ID card, moves from the address named in the  
11 application or in the issued REAL ID card or when the name of a  
12 REAL ID card holder is changed, the person shall, within ten  
13 days, notify the department of the new address or name in  
14 writing or by electronic media pursuant to department rules.  
15 In the event of a change of address or name, a REAL ID card  
16 holder shall deliver the REAL ID card to the department and the  
17 change of name or address shall be reflected on the REAL ID  
18 card itself. The department may require evidence that the  
19 department deems sufficient as documentary evidence of the  
20 change of name or address of the REAL ID card holder.

21           N. The department shall charge a fee for the  
22 issuance of a REAL ID card that is identical to the fee charged  
23 for a driver's license that is valid for the same period of  
24 time.

25           O. It is a:

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- 1 (1) misdemeanor for any person to:
- 2 (a) use or possess an altered, forged or
- 3 fictitious REAL ID card;
- 4 (b) alter or forge an identification
- 5 card or make a fictitious REAL ID card;
- 6 (c) lend the person's REAL ID card to
- 7 any other person or to knowingly permit the use of the person's
- 8 REAL ID card by another;
- 9 (d) display or represent as one's own
- 10 any REAL ID card not issued to the person; or
- 11 (e) make or permit any unlawful use of
- 12 the REAL ID card issued to, or received or obtained by, the
- 13 person; and

- 14 (2) felony for any person to:
- 15 (a) knowingly or willfully provide a
- 16 false or fictitious name or document in any application for a
- 17 REAL ID card or knowingly make a false statement or conceal a
- 18 material fact or otherwise commit a fraud in any such
- 19 application; or
- 20 (b) induce or solicit another person, or
- 21 conspire with another person, to violate this subsection."

22 SECTION 2. A new section of Chapter 66, Article 5 NMSA

23 1978 is enacted to read:

24 "[NEW MATERIAL] NONCOMPLIANT DRIVER'S LICENSES AND

25 IDENTIFICATION CARDS.--Except for REAL ID cards, all driver's

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1 licenses and identification cards issued by the state of New  
2 Mexico shall bear the statement "NOT FOR FEDERAL PURPOSES".

3 SECTION 3. Section 66-1-4.10 NMSA 1978 (being Laws 1990,  
4 Chapter 120, Section 11) is amended to read:

5 "66-1-4.10. DEFINITIONS.--As used in the Motor Vehicle  
6 Code:

7 A. "laned roadway" means a roadway that is divided  
8 into two or more clearly marked lanes for vehicular traffic;

9 B. "law enforcement agency designated by the  
10 division" means the law enforcement agency indicated on the  
11 dismantler's notification form as the appropriate agency for  
12 the receipt of the appropriate copy of that form;

13 C. "lawful status" means the legal right to be  
14 present in the United States, as that phrase is used in the  
15 federal REAL ID Act of 2005;

16 [~~G.~~] D. "license", without modification, means any  
17 license, [~~temporary instruction~~] permit or [~~temporary license~~]  
18 card issued or recognized under the laws of New Mexico  
19 pertaining to the [~~licensing~~] authorizing of persons to operate  
20 motor vehicles;

21 [~~D.~~] E. "lien" or "encumbrance" means every chattel  
22 mortgage, conditional sales contract, lease, purchase lease,  
23 sales lease, contract, security interest under the Uniform  
24 Commercial Code or other instrument in writing having the  
25 effect of a mortgage or lien or encumbrance upon, or intended

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1 to hold, the title to any vehicle in the former owner,  
2 possessor or grantor; and

3 ~~[E-]~~ F. "local authorities" means every county,  
4 municipality and any local board or body having authority to  
5 enact laws relating to traffic under the constitution and laws  
6 of this state."

7 SECTION 4. Section 66-1-4.15 NMSA 1978 (being Laws 1990,  
8 Chapter 120, Section 16, as amended) is amended to read:

9 "66-1-4.15. DEFINITIONS.--As used in the Motor Vehicle  
10 Code:

11 A. "railroad" means a carrier of persons or  
12 property upon cars operated upon stationary rails;

13 B. "railroad sign or signal" means any sign, signal  
14 or device erected by authority of a public body or official or  
15 by a railroad and intended to give notice of the presence of  
16 railroad tracks or the approach of a railroad train;

17 C. "railroad train" means a steam engine, electric  
18 or other motor, with or without cars coupled thereto, operated  
19 upon rails;

20 D. "REAL ID card" means an identity document issued  
21 to a person who has lawful status;

22 ~~[D-]~~ E. "reconstructed vehicle" means any vehicle  
23 assembled or constructed largely by means of essential parts,  
24 new or used, derived from other vehicles or which, if  
25 originally otherwise assembled or constructed, has been

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1 materially altered by the removal of essential parts, new or  
2 used;

3 ~~[E.]~~ F. "recreational travel trailer" means a  
4 camping body designed to be drawn by another vehicle;

5 ~~[F.]~~ G. "recreational vehicle" means a vehicle with  
6 a camping body that has its own motive power, is affixed to or  
7 is drawn by another vehicle and includes motor homes, travel  
8 trailers and truck campers;

9 ~~[G.]~~ H. "registration" means registration  
10 certificates and registration plates issued under the laws of  
11 New Mexico pertaining to the registration of vehicles;

12 ~~[H.]~~ I. "registration number" means the number  
13 assigned upon registration by the division to the owner of a  
14 vehicle or motor vehicle required to be registered by the Motor  
15 Vehicle Code;

16 ~~[I.]~~ J. "registration plate" means the plate,  
17 marker, sticker or tag assigned by the division for the  
18 identification of the registered vehicle;

19 ~~[J.]~~ K. "residence district" means the territory  
20 contiguous to and including a highway not comprising a business  
21 district when the property on the highway for a distance of  
22 three hundred feet or more is in the main improved with  
23 residences or residences and buildings in use for business;

24 ~~[K.]~~ L. "revocation" means that the driver's  
25 license and privilege to drive a motor vehicle on the public

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1 highways are terminated and shall not be renewed or restored,  
2 except that an application for a new license may be presented  
3 to and acted upon by the division after the expiration of at  
4 least one year after date of revocation;

5 ~~[L.]~~ M. "right of way" means the privilege of the  
6 immediate use of the roadway;

7 ~~[M.]~~ N. "road tractor" means every motor vehicle  
8 designed and used primarily for drawing other vehicles and  
9 constructed not to carry a significant load on the road  
10 tractor, either independently or as any part of the weight of a  
11 vehicle or load drawn; and

12 ~~[N.]~~ O. "roadway" means that portion of a street or  
13 highway improved, designed or ordinarily used for vehicular  
14 travel, exclusive of the berm or shoulder; when a highway  
15 includes two or more separate roadways, the term "roadway"  
16 refers to each roadway separately but not to all of the  
17 roadways collectively."

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

20 "66-8-1.1. FRAUD ~~[IN OBTAINING DOCUMENTS ISSUED]~~ RELATED  
21 TO THE ISSUANCE OF DOCUMENTS BY THE [DIVISION] DEPARTMENT--  
22 [PENALTY] PENALTIES.--

23 A. It is a felony for a ~~[person]~~ department  
24 employee or private retail agent or other contractor of the  
25 department to:

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

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

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

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

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

21 SECTION 6. EMERGENCY.--It is necessary for the public  
22 peace, health and safety that this act take effect immediately.