SENATE BILL 653

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY
Stuart Ingle

AN ACT
RELATING TO DRIVER'S LICENSES; PROVIDING TWO TIERS OF DRIVER'S LICENSES AND IDENTIFICATION CARDS; CREATING DRIVER'S LICENSES AND IDENTIFICATION CARDS THAT MEET THE REQUIREMENTS OF THE FEDERAL REAL ID ACT OF 2005; REQUIRING PROOF OF LAWFUL PRESENCE IN THE UNITED STATES FOR APPLICANTS TO OBTAIN DRIVER'S LICENSES OR IDENTIFICATION CARDS THAT MEET THE REQUIREMENTS OF THE FEDERAL REAL ID ACT OF 2005; LIMITING THE DURATION OF A PERSON'S DRIVER'S LICENSE OR IDENTIFICATION CARD TO THE PERSON'S LAWFUL STAY IN THE UNITED STATES; INCREASING PENALTIES AND IMPOSING NEW PENALTIES.

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, provision
    provisional license or driver's license shall be made upon a
    form furnished by the department. An application shall be
    accompanied by the proper fee. For permits, provisional
    licenses or driver's licenses other than those issued pursuant
    to the New Mexico Commercial Driver's License Act, submission
    of a complete application with payment of the fee entitles the
    applicant to not more than three attempts to pass the
    examination within a period of six months from the date of
    application.

    B. An application shall contain the applicant's
    full legal name; social security number, [or individual tax
    identification] except for an applicant ineligible for a social
    security number; date of birth; sex; and New Mexico residence
    address [of the applicant] and shall briefly describe the
    applicant and indicate whether the applicant has previously
    been licensed as a driver and, if so, when and by what state or
    country and whether any such license has ever been suspended or
    revoked or whether an application has ever been refused and, if
    so, the date of and reason for the suspension, revocation or
    refusal. [For foreign nationals applying for driver's
    licenses, the secretary shall accept the individual taxpayer
    identification number as a substitute for a social security
    number regardless of immigration status.] The secretary is
authorized to establish by regulation \[other\] documents that may be accepted as \[a substitute for a social security number or an individual tax identification number\] evidence of the identity and residency of the applicant.

C. A person with lawful presence in the United States may apply for a driver's license that meets federal requirements to be accepted by federal agencies for official federal purposes or a driver's license not intended to be accepted by federal agencies for official federal purposes.

D. An applicant shall indicate whether the applicant is applying for a driver's license that meets federal requirements to be accepted by federal agencies for official federal purposes or a driver's license not intended to be accepted by federal agencies for official federal purposes. The department shall issue a driver's license not intended to be accepted by federal agencies for official federal purposes to an applicant who is otherwise eligible but who does not provide a social security number or proof of lawful presence in the United States. An applicant who does not provide a social security number or proof of lawful presence in the United States shall only apply for a driver's license not intended to be accepted by federal agencies for official federal purposes.

E. An application by a foreign national with lawful presence in the United States for a driver's license that meets federal requirements to be accepted by federal agencies for official federal purposes.
official federal purposes shall contain the unique identifying number of the foreign national's valid passport, valid visa, employment authorization card issued under the applicant's approved deferred action status or other arrival-departure record or document issued by the federal government that conveys lawful presence in the United States. The department may issue to an eligible foreign national applicant a driver's license that meets federal requirements to be accepted by federal agencies for official federal purposes that is valid only for the time period that the applicant is authorized to stay in the United States.

F. For an application by a foreign national who does not provide a social security number or proof of lawful presence in the United States, the secretary shall accept:

(1) an individual tax identification number;

(2) a passport from the applicant's country of citizenship or an identification card, issued by the consulate of Mexico in Albuquerque, New Mexico, the consulate general of Mexico in El Paso, Texas, or such other foreign consulate with which the department has established a reliable method of verifying the authenticity of the identification card; or

(3) a document that the secretary has authorized as an acceptable substitute for an individual tax identification number.

[Gr] G. An applicant shall indicate whether the
applicant has been convicted of driving while under the influence of intoxicating liquor or drugs in this state or in any other jurisdiction. Failure to disclose any such conviction prevents the issuance of a driver's license, provisional license, temporary license or instruction permit for a period of one year if the failure to disclose is discovered by the department prior to issuance. If the nondisclosure is discovered by the department subsequent to issuance, the department shall revoke the driver's license, provisional license, temporary license or instruction permit for a period of one year. Intentional and willful failure to disclose, as required in this subsection, is a misdemeanor.

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

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

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

(3) complied with restrictions on that
license;

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

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

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

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

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Whenever an application is received from a person previously licensed in another jurisdiction, the department may request a copy of the driver's record from the other jurisdiction. When received, the driver's record may become a part of the driver's record in this state with the same effect as though entered on the driver's record in this state in the original instance.

Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

This section does not apply to driver's licenses issued pursuant to the New Mexico Commercial Driver's License Act."

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

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

A. The department shall, upon payment of the required fee, issue to every qualified applicant a driver's license as applied for. [The license] All licenses shall bear the full legal name, date of birth, sex, current New Mexico [physical or mailing] residence address, a full-face or front-view digital photograph of the license holder, [and] a unique driver's license number, a date of issuance, an expiration date, a brief description of the licensee and the signature of the licensee. A license shall not be valid unless it bears the
signature of the licensee.

B. By December 1, 2015, the department shall establish two distinct driver's licenses. A driver's license issued to a licensee that meets federal requirements to be accepted by federal agencies for official federal purposes shall contain a color and design that distinguishes it from a driver's license that is not intended to be accepted by federal agencies for official federal purposes. The department shall adopt the general design marking known as gold star pursuant to the federal real ID security plan guidance handbook to implement the provisions of this subsection.

C. A driver's license that is not intended to be accepted by federal agencies for official federal purposes shall bear the following statement: "Not for Federal Purposes", and otherwise maintain the color and design in effect prior to January 1, 2015."

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

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

A. Except as provided in Subsection B, [or] D, E or F of this section, Section 66-5-19 NMSA 1978 and Section .200322.1
66-5-67 NMSA 1978, all driver's licenses shall be issued for a period of four years, and each license shall expire thirty days after the applicant's birthday in the fourth year after the effective date of the license or shall expire thirty days after the applicant's seventy-fifth birthday. A license issued pursuant to Section 66-5-19 NMSA 1978 shall expire thirty days after the applicant's birthday in the year in which the license expires. Each license is renewable within ninety days prior to its expiration or at an earlier date approved by the department. The fee for the license shall be as provided in Section 66-5-44 NMSA 1978. The department may provide for renewal by mail or telephonic or electronic means of a driver's license issued pursuant to the provisions of this subsection, pursuant to regulations adopted by the department that ensure adequate security measures to safeguard personal information that is obtained in the issuance of a driver's license. The department may require an examination upon renewal of the driver's license.

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

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

(2) otherwise qualifies for a four-year driver's license; and
(3) will not reach the age of seventy-five
during the last four years of the eight-year license period or
reach the age of twenty-one during any year within the term of
the license.

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

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

E. A driver's license that meets federal
requirements to be accepted by federal agencies for official
federal purposes issued to a foreign national with lawful
presence in the United States shall expire on the earlier of:

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

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

(3) thirty days after the applicant's birthday
on the fourth year after the effective date of the license or
on the eighth year after the effective date of the license if

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the applicant opted for a period of eight years pursuant to Subsection B of this section; or

(4) the expiration date of the time period that the applicant is authorized to stay in the United States; provided that if that date cannot be determined by the department and the applicant is not a legal permanent resident, the driver's license shall expire one year after the effective date of the license.

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

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

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

A. display or cause or permit to be displayed or have in [his] the person's possession any canceled, revoked or suspended driver's license or permit or commercial driver's license or permit;

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

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

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

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

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

   G. do any act forbidden or fail to perform any act required by Sections [66-5-1] 66-5-1.1 through 66-5-47 NMSA 1978 or the provisions of the New Mexico Commercial Driver's License Act."

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

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

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

An application for an identification card shall be made upon a form furnished by the department. An application shall contain the applicant's full legal name; social security number, except for applicants ineligible for a social security number; date of birth; sex; and New Mexico residence address and briefly describe the applicant. The department shall establish two distinct identification cards as provided in Section 66-5-405 NMSA 1978: an identification card that meets federal requirements to be accepted by federal agencies for official federal purposes and an identification card not intended to be accepted by federal agencies for official federal purposes. A person with lawful presence in the United States may apply for an identification card that meets federal requirements to be accepted by federal agencies for official federal purposes or an identification card not intended to be accepted by federal agencies for official federal purposes. Every application for an identification card shall be signed by the applicant or the applicant's parent or guardian. The secretary may, for good cause, revoke or deny the issuance of an identification card.

B. An application by a foreign national with lawful presence in the United States for an identification card that meets federal requirements to be accepted by federal agencies for official federal purposes shall contain the unique

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identifying number of the foreign national's valid passport, 
valid visa, employment authorization card issued under the 
applicant's approved deferred action status or other 
arrival-departure record or document issued by the federal 
government that conveys lawful presence in the United States. 
The department may issue to an eligible foreign national 
applicant an identification card that meets federal 
requirements to be accepted by federal agencies for official 
federal purposes that is valid only for the time period that 
the applicant is authorized to stay in the United States.

C. The department shall issue an identification 
card that is not intended to be accepted by federal agencies 
for official federal purposes to an applicant who is otherwise 
eligible but who does not provide a social security number or 
proof of lawful presence in the United States. For an 
application by a foreign national who does not provide a social 
security number or proof of lawful presence in the United 
States, the secretary shall accept:

(1) an individual tax identification number; 
(2) a passport from the applicant's country of 
citizenship or an identification card, issued by the consulate 
of Mexico in Albuquerque, New Mexico, the consulate general of 
Mexico in El Paso, Texas, or such other foreign consulate with 
which the department has established a reliable method of 
verifying the authenticity of the identification card; or

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(3) a document that the secretary has authorized as an acceptable substitute for an individual tax identification number.

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D. Within the forms prescribed by the department for identification card applications, a space shall be provided to show whether the applicant is a donor as provided in the Jonathan Spradling Revised Uniform Anatomical Gift Act. A person applying for an identification card may indicate that person's status on the space provided on the application. The donor status indicated by the applicant shall be displayed on the identification card. The form and identification card shall be signed by the donor in the presence of a witness who shall also sign the form in the donor's presence."

SECTION 6. Section 66-5-403 NMSA 1978 (being Laws 1973, Chapter 269, Section 3, as amended by Laws 2010, Chapter 42, Section 3 and by Laws 2010, Chapter 70, Section 3) is amended to read:

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

A. Except as provided in Subsection B, C or D of this section, every identification card shall be issued for a period not to exceed four years and shall expire on the last day of the month of the identified person's birth in the fourth year after the effective date of the identification card.
B. An identification card may be renewed within ninety days prior to its expiration or at an earlier date approved by the department. An identification card may be renewed by mail or telephonic or electronic means pursuant to regulations adopted by the department. The regulations shall ensure adequate security measures to safeguard personal information that is obtained in the issuance of an identification card.

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

D. An identification card that meets federal requirements to be accepted by federal agencies for official federal purposes issued to a foreign national with lawful presence in the United States shall expire on the earlier of:

(1) the last day of the month of the applicant's birth in the fourth year after the effective date of the identification card or in the eighth year after the effective date of the identification card if the applicant
opted for a period of eight years pursuant to Subsection C of this section; or

(2) the expiration date of the time period that the applicant is authorized to stay in the United States; provided that if that date cannot be determined by the department and the applicant is not a legal permanent resident, the identification card shall expire one year after the effective date of the identification card.

SECTION 7. Section 66-5-405 NMSA 1978 (being Laws 1978, Chapter 35, Section 332, as amended) is amended to read:

"66-5-405. CONTENTS OF CARD.--[The]

A. All identification [card] cards shall [adequately describe the registrant and bear his picture that shall show a full face or front view for all registrants and] bear the full legal name, date of birth, sex, current New Mexico residence address, a full-face or front-view digital photograph of the identification card holder, a unique identification card number, a date of issuance, an expiration date, a brief description of the identification card holder and the signature of the holder, and the identification card shall indicate donor status. All identification cards of persons under the age of twenty-one years shall have a printed legend indicating that the person is under twenty-one. [The]

B. An identification card that is not intended to be accepted by federal agencies for official federal purposes
shall bear the following statement:

"STATE OF NEW MEXICO IDENTIFICATION
CARD NO.__________
This card is provided solely for the purpose of establishing that the bearer described on the card was not the holder of a New Mexico driver's license as of the date of issuance of this card. This identification card is not a license. ISSUED FOR IDENTIFICATION PURPOSES ONLY. NOT FOR FEDERAL PURPOSES.".

C. An identification card that meets federal requirements to be accepted by federal agencies for official federal purposes shall contain a color and design that distinguishes it from an identification card that is not intended to be accepted by federal agencies for official federal purposes. The department shall adopt the general design marking known as gold star pursuant to the federal real ID security plan guidance handbook to implement the provisions of this subsection. An identification card that is acceptable by federal agencies for official federal purposes shall bear the following statement:

"STATE OF NEW MEXICO IDENTIFICATION
CARD NO.____________________
This card is provided for the purpose of establishing that the bearer described on the card was not the holder of a New Mexico driver's license as of the date of issuance of this card. This identification card is not a license."."
SECTION 8. Section 66-5-409 NMSA 1978 (being Laws 1991, Chapter 160, Section 13) is amended to read:

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

A. It is a misdemeanor for any person to:

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

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

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

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

[(5) use a false or fictitious name in any application for an identification card or knowingly make a false statement or conceal a material fact or otherwise commit a fraud in any such application; or

(6)] (5) make or permit any unlawful use of the identification card issued to, or received or obtained by, the person.

B. It is a felony for any person to:

(1) knowingly or willfully provide a false or fictitious name in any application for an identification card or knowingly make a false statement or conceal a material fact or otherwise commit a fraud in any such application; or
(2) induce or solicit another person, or
conspire with another person, to violate this subsection.

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

SECTION 9. Section 66-8-1.1 NMSA 1978 (being Laws 2007,
Chapter 319, Section 65) is amended to read:

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

PENALTIES.--

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

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

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

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

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

B. It is a felony for an applicant to knowingly or willfully provide a false name, false information or fraudulent document required by Section 66-5-9 or 66-5-401 NMSA 1978 or otherwise commit a fraud in an application submitted pursuant to Section 66-5-9 or 66-5-401 NMSA 1978.

C. It is a felony for a person to:

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

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

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

E. A person convicted of violating Subsection B or C of this section is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section .200322.1
31-18-15 NMSA 1978."

SECTION 10. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

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