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HOUSE BILL 22

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2011

INTRODUCED BY

Ben Lujan

AN ACT

DISCONTINUING THE ISSUANCE OF DRIVER'S LICENSES FOR EIGHT-YEAR AND FOUR-YEAR ISSUANCE PERIODS TO CERTAIN FOREIGN NATIONALS; REQUIRING ADDITIONAL IDENTIFICATION AND PROOF OF RESIDENCY FOR CERTAIN FOREIGN NATIONALS; LIMITING THE DURATION OF DRIVER'S LICENSES OF CERTAIN FOREIGN NATIONALS TO A TWO-YEAR ISSUANCE PERIOD; REQUIRING THE DRIVER'S RECORD FROM ANOTHER JURISDICTION TO BECOME PART OF THE DRIVER'S RECORD IN THIS STATE; 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,

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

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

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1 C. For a foreign national applicant who does not
2 provide a social security number or proof of authorized
3 presence in the United States, the secretary shall:

4 (1) accept an individual tax identification
5 number, or a document that the secretary has authorized as an
6 acceptable substitute for an individual tax identification
7 number;

8 (2) accept one proof of identity, the
9 requirement of which shall be satisfied by:

10 (a) a birth certificate, either an
11 original or a certified copy, including a foreign birth
12 certificate with a notarized English translation, if necessary;
13 or

14 (b) a form of photo identification, the
15 requirement of which shall be satisfied by a passport from the
16 applicant's country of citizenship or an identification card,
17 issued by the Mexican consulate in Albuquerque, New Mexico, or
18 El Paso, Texas, or such other foreign consulate with which the
19 department has established a reliable method of verifying the
20 authenticity of the identification card;

21 (3) accept two independent forms of proof of
22 the applicant's residency in New Mexico for the last six
23 consecutive months, the requirement of which shall be satisfied
24 by any two of the following:

25 (a) utility bills;

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- 1 (b) bank statements;
2 (c) receipts for a mortgage or real
3 estate contract;
4 (d) rental agreements;
5 (e) New Mexico school records; or
6 (f) other documents authorized by the
7 secretary that show the applicant's address;

8 (4) require a signed and notarized declaration
9 made by the applicant that all documents provided by the
10 applicant with the application are genuine and accurate; and

11 (5) require the applicant to be fingerprinted
12 and to provide two fingerprint cards or the equivalent
13 electronic fingerprints to the department.

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

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1 disclose, as required in this subsection, is a misdemeanor.

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

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

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

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

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

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

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1 or drugs at the time of application.

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

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

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

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

25 [~~I-~~] J. This section does not apply to driver's

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1 licenses issued pursuant to the New Mexico Commercial Driver's
2 License Act."

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

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

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

18 "66-5-21. EXPIRATION OF LICENSE--FOUR-YEAR ISSUANCE
19 PERIOD--EIGHT-YEAR ISSUANCE PERIOD--TWO-YEAR ISSUANCE
20 PERIOD--RENEWAL.--

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

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1 date of the license or shall expire thirty days after the
2 applicant's seventy-fifth birthday. A license issued pursuant
3 to Section 66-5-19 NMSA 1978 shall expire thirty days after the
4 applicant's birthday in the year in which the license expires.
5 Each license is renewable within ninety days prior to its
6 expiration or at an earlier date approved by the department.
7 The fee for the license shall be as provided in Section 66-5-44
8 NMSA 1978. Except for a foreign national applicant who does
9 not provide a social security number, the department may
10 provide for renewal by mail or telephonic or electronic means
11 of a driver's license issued pursuant to the provisions of this
12 subsection, pursuant to regulations adopted by the department
13 that ensure adequate security measures to safeguard personal
14 information that is obtained in the issuance of a driver's
15 license. The department may require an examination upon
16 renewal of the driver's license.

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

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

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

24 (3) will not reach the age of seventy-five
25 during the last four years of the eight-year license period or

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1 reach the age of twenty-one during any year within the term of
2 the license.

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

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

12 E. A driver's license issued to a foreign national
13 applicant who does not provide a social security number shall
14 be valid for a period of two years.

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

21 SECTION 4. Section 66-5-44 NMSA 1978 (being Laws 1978,
22 Chapter 35, Section 266, as amended) is amended to read:

23 "66-5-44. LICENSES AND PERMITS--DURATION AND FEE--
24 APPROPRIATION.--

25 A. There shall be paid to the department a fee of
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1 ten dollars (\$10.00) for each driver's license or duplicate
2 driver's license, except that, for a driver's license issued
3 for an eight-year period, a fee of twenty dollars (\$20.00)
4 shall be paid to the department and that, for a driver's
5 license issued for a two-year period to a foreign national
6 applicant who does not provide a social security number, a fee
7 of five dollars (\$5.00) shall be paid to the department. Each
8 license shall be for a term provided for in Section 66-5-21
9 NMSA 1978.

10 B. For each permit and instruction permit, there
11 shall be paid to the department a fee of two dollars (\$2.00).
12 The term for each permit shall be as provided in Sections
13 66-5-8 and 66-5-9 NMSA 1978.

14 C. Except for fees charged pursuant to Subsection E
15 of this section, the director with the approval of the governor
16 may increase the amount of the fees provided for in this
17 section by an amount not to exceed three dollars (\$3.00) for
18 the purpose of implementing an enhanced driver's license
19 system; provided that for a driver's license issued for an
20 eight-year period, the amount of the fees shall be twice the
21 amount charged for other driver's licenses. The additional
22 amounts collected pursuant to this subsection are appropriated
23 to the department to defray the expense of the new system of
24 licensing and for use as set forth in Subsection F of Section
25 66-6-13 NMSA 1978. Unexpended or unencumbered balances

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1 remaining from fees collected pursuant to the provisions of
2 this subsection at the end of any fiscal year shall not revert
3 to the general fund but shall be expended by the department in
4 fiscal year 2010 and subsequent fiscal years.

5 D. There shall be paid to the department a driver
6 safety fee of three dollars (\$3.00) for each driver's license
7 or duplicate driver's license, except that for a driver's
8 license issued for an eight-year period, a fee of six dollars
9 (\$6.00) shall be paid to the department. The fee shall be
10 distributed to each school district for the purpose of
11 providing defensive driving instruction through the state
12 equalization guarantee distribution made annually pursuant to
13 the general appropriation act.

14 E. The department may charge a fee of no more than
15 fifteen dollars (\$15.00) to a person who holds a driver's
16 license from another state and is applying for a New Mexico
17 driver's license for the first time. The fee is appropriated
18 to the department to defray the expense of determining whether
19 the driver has been convicted of driving a motor vehicle while
20 under the influence of intoxicating liquor or drugs, or
21 equivalent crime, and determining if the person qualifies for a
22 driver's license in this state. The fee provided in this
23 subsection is not subject to the increase provided for in
24 Subsection C of this section."

25 SECTION 5. Section 66-5-44.1 NMSA 1978 (being Laws 1999,
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1 Chapter 175, Section 11) is amended to read:

2 "66-5-44.1. PROVISIONAL LICENSES--DURATION AND FEE--
3 APPROPRIATION.--

4 A. There shall be paid to the division a fee of
5 thirteen dollars (\$13.00) for each provisional license or
6 duplicate provisional license except that, for a provisional
7 license issued for a two-year period to a foreign national
8 applicant who does not provide a social security number, a fee
9 of six dollars fifty cents (\$6.50) shall be paid to the
10 department. Each provisional license shall be for a term
11 provided for in Section 66-5-21 NMSA 1978.

12 B. The director, with the approval of the governor,
13 may increase the amount of the fee provided for in this section
14 by an amount not to exceed three dollars (\$3.00) for the
15 purpose of implementing an enhanced driver's license system.
16 The additional amounts collected pursuant to this subsection
17 are appropriated to the division to defray the expense of the
18 new system of licensing.

19 C. The fees collected pursuant to the provisions of
20 Subsection A of this section are appropriated to the division
21 to defray the expense of implementing the new system of
22 provisional licensing."

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

25 "66-8-1.1. FRAUD [~~IN OBTAINING DOCUMENTS ISSUED~~] RELATED

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1 TO THE ISSUANCE OF DOCUMENTS BY THE DIVISION--~~[PENALTY]~~
2 PENALTIES.--

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

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

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

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

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

21 B. It is a felony for a foreign national applicant
22 to knowingly or willfully provide a false or fraudulent
23 document required by Section 66-5-9 NMSA 1978.

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

25 (1) receive or obtain an instruction permit,

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1 driver's license or provisional license and then transfer the
2 instruction permit, driver's license or provisional license to
3 another person in exchange for anything of value; or

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

7 D. A person convicted of violating Subsection A of
8 this section is guilty of a second degree felony and shall be
9 sentenced pursuant to the provisions of Section 31-18-15 NMSA
10 1978.

11 [~~B-~~] E. A person convicted of violating Subsection
12 B or C of this section is guilty of a fourth degree felony and
13 shall be sentenced pursuant to the provisions of Section
14 31-18-15 NMSA 1978."

15 **SECTION 7. SEVERABILITY.**--If any part or application of
16 this act is held invalid, the remainder or its application to
17 other situations or persons shall not be affected.

18 **SECTION 8. EFFECTIVE DATE.**--The effective date of the
19 provisions of this act is July 1, 2012.