

FIFTIETH LEGISLATURE
FIRST SESSION, 2011

HB 78/a

March 8, 2011

Mr. President:

Your **JUDICIARY COMMITTEE**, to whom has been referred

**HOUSE FLOOR SUBSTITUTE FOR
HOUSE BILL 78**

has had it under consideration and reports same **WITHOUT
RECOMMENDATION**, amended as follows:

1. On page 1, lines 11 and 12, strike "REQUIRING A SOCIAL SECURITY NUMBER FROM ELIGIBLE APPLICANTS;".
2. On page 1, line 13, strike "AND IDENTIFICATION CARDS".
3. On page 1, line 14, strike "AND IDENTIFICATION CARDS".
4. On page 1, line 15, before the period, insert "; PROVIDING FOR CANCELLATION OF CERTAIN DRIVER'S LICENSES; REQUIRING ADDITIONAL IDENTIFICATION AND PROOF OF RESIDENCY FOR FOREIGN NATIONALS; PROVIDING A PENALTY".
5. On page 2, line 8, strike the second comma.
6. On page 2, lines 8 through 10, remove the brackets and line-through and strike all underscored material.
7. On page 2, line 20, after the period, remove the line-through and on lines 21 through 23, remove the bracket and line-through.
8. On pages 2 and 3, strike Subsection C in its entirety and insert in lieu thereof the following new subsection:

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

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

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

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

(b) a form of photo identification, the requirement of which shall be satisfied by a passport from the applicant's country of citizenship or an identification card, issued by the Mexican consulate in Albuquerque, New Mexico, or 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;

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

(a) utility bills;

(b) bank statements;

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

(d) rental agreements;

(e) New Mexico school records; or

(f) other documents authorized by the secretary that show the applicant's address; and

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

9. On page 6, line 2, after the period, insert a closing quotation mark and on lines 3 and 4, strike Subsection K in its entirety.

10. On page 8, lines 13 through 18, strike Subsection E in its entirety and insert in lieu thereof the following new subsection:

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

11. On pages 8 through 13, strike Sections 4 through 7 in their entirety and insert in lieu thereof the following new sections:

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

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

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

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

C. Except for fees charged pursuant to Subsection E of this section, the director with the approval of the governor may increase the amount of the fees provided for in this section by an amount not to exceed three dollars (\$3.00) for the purpose of implementing an enhanced driver's license system; provided that for a driver's license issued for an eight-year period, the amount of the fees shall be twice the amount charged for other driver's licenses. The additional amounts collected pursuant to this subsection are appropriated to the department to defray the expense of the new system of licensing and for use as set forth in Subsection F of Section 66-6-13 NMSA 1978. Unexpended or unencumbered balances remaining from fees collected pursuant to the provisions of this subsection at the end of any fiscal year shall not revert to the general fund but shall be expended by the department in fiscal year 2010 and subsequent fiscal years.

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

E. The department may charge a fee of no more than fifteen dollars (\$15.00) to a person who holds a driver's license from another state and is applying for a New Mexico driver's license for the first time. The fee is appropriated to the department to defray the expense of determining whether the driver has been convicted of driving a motor vehicle while under the influence of intoxicating liquor or drugs, or equivalent crime, and determining if the person

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qualifies for a driver's license in this state. The fee provided in this subsection is not subject to the increase provided for in Subsection C of this section."

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

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

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

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

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

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

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"66-8-1.1. FRAUD IN OBTAINING DOCUMENTS ISSUED BY THE
DIVISION--PENALTY.--

A. It is a felony for a person 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; [øø]

(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;

(5) knowingly provide a signed declaration that all documents provided by the applicant are genuine and accurate as required by Subsection A of Section 66-5-9 NMSA 1978 when any document provided by the applicant is not genuine or accurate;

(6) receive an instruction permit, driver's license or provisional license and then transfer the instruction permit, driver's license or provisional license to another person; or

(7) induce or solicit another person, or conspire with an applicant, to violate Paragraph (5) or (6) of this subsection.

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B. A person convicted of violating Paragraph (1) of 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.

~~[B.]~~ C. A person convicted of violating Paragraphs (2) through (7) of Subsection A of this section is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

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

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

A. The department shall identify any person who was issued an instruction permit, a driver's license or a provisional license without the person providing the person's social security number. The department shall provide written notice to the person that the instruction permit, driver's license or provisional license will be canceled if, within two years, the person fails to submit the person's social security number or submit a new application pursuant to Section 66-5-9 NMSA 1978.

B. Thirty days prior to the cancellation of the instruction permit, driver's license or provisional license, the department shall provide written notice to the person that the instruction permit, driver's license or provisional license will be canceled if the person's social security number or new application, pursuant to Section 66-5-9 NMSA 1978, is not submitted within thirty days.

C. Upon cancellation, the department shall notify the person in writing of the cancellation of that person's instruction permit, driver's license or provisional license. Within twenty days of receiving notice of cancellation, a person may request that the

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department rescind the order of cancellation and afford the person an opportunity to show that the person has submitted the person's social security number or individual tax identification number and proof of the person's identity and proof of New Mexico residency pursuant to Section 66-5-9 NMSA 1978.

D. Within twenty days upon receipt of a request to rescind the order of cancellation, the department shall provide the person an opportunity to show that the person has submitted that person's social security number or individual tax identification number and proof of the person's identity and proof of New Mexico residency, pursuant to Section 66-5-9 NMSA 1978, in the county in which the person resides unless the department and the person agree to another county. The secretary or the secretary's duly authorized agent may administer oaths. Upon a showing that the person has provided a social security number or individual tax identification number and proof of the person's identity and proof of New Mexico residency, the department shall reinstate the instruction permit, driver's license or provisional license for a period pursuant to Section 66-5-21 NMSA 1978.

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

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

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Respectfully submitted,

Richard C. Martinez, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 9 For 2 Against
Yes: 9
No: Eichenberg, Ryan
Excused: None
Absent: None

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