HOUSE BILL 32

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

INTRODUCED BY

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AN ACT

RELATING TO DRIVER'S LICENSES; PROVIDING FOR A TWO-TIERED
SYSTEM OF DRIVER'S LICENSES AND IDENTIFICATION CARDS; PROVIDING
FOR A RESTRICTED TEMPORARY DRIVER'S LICENSE OR IDENTIFICATION
CARD OF ONE YEAR'S DURATION FOR CERTAIN FOREIGN NATIONALS;
REQUIREING A SOCIAL SECURITY NUMBER FROM ELIGIBLE APPLICANTS FOR
CERTAIN DRIVER'S LICENSES OR IDENTIFICATION CARDS; PROVIDING
FOR CERTAIN DRIVER'S LICENSES AND IDENTIFICATION CARDS TO BE
ACCEPTED BY FEDERAL AGENCIES FOR OFFICIAL FEDERAL PURPOSES;
LIMITING THE DURATION OF DRIVER'S LICENSES AND IDENTIFICATION
CARDS OF FOREIGN NATIONALS; REQUIRING PROOF OF GRANTED DEFERRED
ACTION FOR CHILDHOOD ARRIVALS; 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,
.198374.3
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, 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 number] except for an applicant ineligible for a social security number; date of birth; sex; and New Mexico residence address of the applicant and 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 .198374.3
identification number as a substitute for a social security
type 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] documentary evidence of
the identity and residency of the applicant.

C. 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. An
applicant who is a foreign national and who does not provide
proof of authorized period of admission into the United States
shall only apply for a driver's license not intended to be
accepted by federal agencies for official federal purposes.

D. An application by a foreign national for a
driver's license that meets federal requirements to be accepted
by federal agencies for official federal purposes shall contain
the unique identifying number of the foreign national's valid
passport, valid visa or other arrival-departure record or
document issued by the federal government and the expiration
date of the foreign national's authorized period of admission
or extension of stay as demonstrated on the foreign national's
valid passport, valid visa or arrival-departure record or other
document issued by the federal government. The department may
issue to an eligible foreign national applicant a driver's license that is valid only for the duration of the foreign national's authorized period of admission or extension of stay and that shall state that it is term limited.

E. For an application for a driver's license not intended to be accepted by federal agencies for official federal purposes, the secretary shall require proof:

(1) that the applicant has been granted deferred action for childhood arrivals;

(2) that the applicant has resided in New Mexico for six consecutive months;

(3) that the applicant has completed a driver's education course at a driver education school licensed pursuant to the Driving School Licensing Act and passed a written and on-the-road examination administered by the department; and

(4) of the applicant's identity; provided that the secretary shall not accept as proof of identity a driving privilege permit or other document not intended as identification and issued exclusively to authorize an individual to drive a motor vehicle by a state or other jurisdiction.

[F.] 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

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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-] G. 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.

[F. H.] 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. I.] 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.

[G. J.] Whenever an application is received from a
person previously licensed in another jurisdiction, the

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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.

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

[I-] L. 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] 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. The department shall establish two distinct
driver's licenses. On or after July 1, 2015, 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 United States department of homeland security-approved security marking in a unique color and design that distinguishes the driver's license meeting federal requirements to be accepted by federal agencies for official federal purposes from a driver's license that is not intended to be accepted by federal agencies for official federal purposes. The driver's license that is not intended to be accepted by federal agencies for official federal purposes shall clearly state on the front of the driver's license that it is not acceptable for official federal purposes."

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] or Section 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. A driver's license issued to a foreign
national shall not be renewed unless the applicant presents
valid documentary evidence that the status by which the
applicant qualified for the driver's license is still in effect
or that the applicant continues to qualify for lawful status in
the United States.

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 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
the applicant opted for a period of eight years pursuant to
Subsection B of this section; or
(4) the date, if one exists, of the foreign
national's termination of authorized period of admission or
extension of stay as demonstrated on the foreign national's
valid passport, valid visa or arrival-departure record or other
document issued by the federal government; provided that if
that date cannot be determined by the department, the driver's
license shall expire one year after the effective date of the
license.
F. A driver's license that is not intended to be
accepted by federal agencies for official federal purposes
issued to a foreign national who does not provide proof of
authorized period of admission into the United States shall
expire on the earlier of:
(1) one year after the effective date of the
license; or
(2) the date of the applicant's termination of
deferred action for childhood arrivals.
[E-] G. The [director] 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
.198374.3
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 66-5-47 NMSA 1978 (being Laws 1978,
Chapter 35, Section 269, as amended) is amended to read:

"66-5-47. PHOTOGRAPHS--EVIDENCE OF APPLICANT'S AGE.--

A. The department shall reproduce the likeness of
drivers, subject to the following conditions:

(1) photographs or other reproductions of the
likeness of all persons shall show a full face or front view;
and

(2) photographs or other reproductions of the
likeness of all persons under the age of twenty-one years shall
have a printed legend, indicating that the person is under
twenty-one, which shall be displayed in such manner as to be
easily read by any person inspecting the license.

B. Each applicant for an initial license or a
replacement license shall produce evidence of the applicant's
age. Proof of an applicant's age shall be a [birth
certificate] certified copy of a birth certificate [a church
certificate]."
record purporting to show the date of birth and baptism, an
acknowledged copy of the church record] filed with the vital
records and health statistics bureau of the department of
health or equivalent agency in the applicant's state of birth,
a valid, unexpired United States passport, [or other evidence
which the secretary deems sufficient] a valid, unexpired
permanent resident card issued by the United States department
of homeland security, an unexpired employment authorization
document issued by the United States department of homeland
security, a valid, unexpired foreign passport with a valid,
unexpired United States visa affixed accompanied by the
approved I-94 form documenting the applicant's most recent
admittance into the United States, a certificate of
naturalization issued by the United States department of
homeland security, a certificate of citizenship issued by the
United States department of homeland security or a REAL ID
driver's license or identification card issued in compliance
with the standards established by the United States department
of homeland security. The date of birth shown on [any] a
driver's license or [any] instruction permit issued by the
department shall coincide with the date of birth shown on the
proof of applicant's age."

SECTION 6. Section 66-5-401 NMSA 1978 (being Laws 1978,
Chapter 35, Section 328, as amended) is amended to read:

"66-5-401. IDENTIFICATION CARDS.--
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. 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 applicant shall indicate whether the applicant is applying 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. An applicant who is a foreign national and who does not provide proof of authorized period of admission into the United States shall only apply for an identification card not intended to be accepted by federal agencies for official federal purposes.

C. In addition to the requirements of Subsection A of this section, an application by a foreign national for an identification card that meets federal requirements to be accepted by federal agencies for official federal purposes shall contain the unique identifying number of the foreign national's valid passport, valid visa or other arrival-departure record or document issued by the federal government.

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and the expiration date of the foreign national's authorized period of admission or extension of stay as demonstrated on the foreign national's valid passport, valid visa or arrival-departure record or other document issued by the federal government. The department may issue to an eligible foreign national applicant with lawful status an identification card that is valid only for the duration of the foreign national's authorized period of admission or extension of stay and that states that it is term limited.

D. For an application for an identification card not intended to be accepted by federal agencies for official federal purposes, the secretary shall require proof:

(1) that the applicant has been granted deferred action for childhood arrivals;

(2) that the applicant has resided in New Mexico for six consecutive months; and

(3) of the applicant's identity; provided that the secretary shall not accept as proof of identity a driving privilege permit or other document not intended as identification and issued exclusively to authorize an individual to drive a motor vehicle by a state or other jurisdiction.

[E.] 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 7. Section 66-5-402 NMSA 1978 (being Laws 1978, Chapter 35, Section 329, as amended) is amended to read:

"66-5-402. PERSONS ELIGIBLE FOR IDENTIFICATION CARDS.--The department shall issue an identification card only to [A.]
a person who is a New Mexico resident and who does not have a valid New Mexico driver's license and only upon the furnishing of a birth certificate or its certified copy [a certificate of baptism] or a valid passport or other evidence that the department deems sufficient as documentary evidence of the age and identity of the person [or

B. a person over age sixty-five who is a New Mexico resident and who is surrendering a valid New Mexico driver's license, which license shall be sufficient documentary evidence of the age and identity of the person]."

SECTION 8. 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, [or] 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. An identification card issued to a
foreign national shall not be renewed unless the person
presents valid documentary evidence that the status by which
the applicant qualified for the identification card is still in
effect or that the applicant has lawful status in the United
States.

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
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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 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 birthday on the fourth year after the effective date of the identification card or on 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

(3) the date, if one exists, of the foreign national's termination of authorized period of admission or extension of stay as demonstrated on the foreign national's valid passport, valid visa or arrival-departure record or other document issued by the federal government; provided that if that date cannot be determined by the department, the
identification card shall expire one year after the effective date of the identification card.

E. An identification card that is not intended to be accepted by federal agencies for official federal purposes issued to a foreign national who does not provide proof of authorized period of admission into the United States shall expire on the earlier of:

(1) one year after the effective date of the identification card; or

(2) the date of the applicant's termination of deferred action for childhood arrivals."

SECTION 9. 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 identification card shall adequately describe the registrant and bear his picture that shall show a full face or front view for all registrants and]

A. The department shall establish two distinct identification cards. On or after July 1, 2015, an identification card issued to an applicant that meets federal requirements to be accepted by federal agencies for official federal purposes shall contain a United States department of homeland security-approved security marking in a unique color and design that distinguishes the identification card meeting federal requirements to be accepted by federal agencies for..."
official federal purposes from an identification card that is not intended to be accepted by federal agencies for official federal purposes. The identification card that is not intended to be accepted by federal agencies for official federal purposes shall clearly state on the face of the identification card that it is not acceptable for official federal purposes.

B. All identification cards shall bear the full legal name, date of birth, sex, current New Mexico physical 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 a 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 identification card 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".

SECTION 10. Section 66-5-409 NMSA 1978 (being Laws 1991, .198374.3
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 11. 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

(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 NMSA 1978 or otherwise commit a fraud in an application submitted pursuant to Section 66-5-9 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 31-18-15 NMSA 1978."
SECTION 12. A new section of the Motor Vehicle Code is enacted to read:

"[NEW MATERIAL] USE OF RESTRICTED TEMPORARY LICENSE FOR IDENTIFICATION OUTSIDE OF NEW MEXICO--PROHIBITED.--A driver's license issued to a foreign national applicant who does not provide a social security number or proof of authorized presence in the United States shall not be valid for identification purposes outside the exterior boundaries of New Mexico."

SECTION 13. SEVERABILITY.--If any part or application of this act is held invalid, the remainder or its application to other situations or persons shall not be affected.

SECTION 14. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.