HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 32

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

AN ACT
RELATING TO DRIVER'S LICENSES; PROVIDING FOR A RESTRICTED
TEMPORARY DRIVER'S LICENSE OR IDENTIFICATION CARD FOR CERTAIN
FOREIGN NATIONALS; REQUIRING PROOF OF AUTHORIZED PRESENCE FROM
APPLICANTS FOR DRIVER'S LICENSES OR IDENTIFICATION CARDS;
PROVIDING FOR 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 CERTAIN FOREIGN NATIONALS; 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.--

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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 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] documentary evidence of the identity and residency of the applicant.

C. An applicant who is a foreign national shall provide proof of authorized period of admission into the United States.

D. An application by a foreign national 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 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, employment authorization card issued under the applicant's approved deferred action status 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. 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-] F. 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-] G. 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-] H. 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-] I. 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.

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

[I.] K. 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.--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."

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, D, E or F of this section, Section 66-5-19 NMSA 1978 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

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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 remains within the applicant's authorized period of admission or extension of stay 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 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, employment authorization card issued under the applicant's approved deferred action status 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 issued to a foreign national is no longer valid and shall expire immediately upon the revocation, termination or withdrawal of approval by the federal government for the foreign national's authorized period.
of admission or extension of stay or if the foreign national is no longer approved for deferred action.

[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 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
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 who is a foreign national shall
provide proof of authorized period of admission into the United
States.

C. An application by a foreign national 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 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, employment authorization card issued under the applicant's approved deferred action status 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.

[B.] 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 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 remains within the applicant's 
authorized period of admission or extension of stay 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 
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 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, employment authorization card
issued under the applicant's approved deferred action status 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 issued to a foreign
national is no longer valid and shall expire immediately upon
the revocation, termination or withdrawal of approval by the
federal government for the foreign national's authorized period
of admission or extension of stay or if the foreign national is
no longer approved for deferred action.

F. The secretary may adopt regulations providing
for the proration of identification card fees due to shortened
licensure periods permitted pursuant to the provisions of this
section."

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] 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, 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:

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"[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.

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