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HOUSE BILL 99

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Paul A. Pacheco and Andy Nunez

AN ACT

RELATING TO COMPLIANCE WITH THE FEDERAL REAL ID ACT OF 2005;
PROVIDING FOR DRIVER'S LICENSES AND IDENTIFICATION CARDS TO BE
ACCEPTED BY FEDERAL AGENCIES FOR OFFICIAL FEDERAL PURPOSES;
PROVIDING FOR A DRIVING PRIVILEGE CARD FOR CERTAIN FOREIGN
NATIONALS; REQUIRING PROOF OF AUTHORIZED LEGAL PRESENCE FROM
APPLICANTS FOR REAL-ID-COMPLIANT DRIVER'S LICENSES AND
IDENTIFICATION CARDS; LIMITING THE DURATION OF DRIVING
PRIVILEGE CARDS OF CERTAIN FOREIGN NATIONALS; INCREASING
PENALTIES AND ADDING NEW PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 66-1-4.4 NMSA 1978 (being Laws 1990,
Chapter 120, Section 5, as amended) is amended to read:

"66-1-4.4. DEFINITIONS.--As used in the Motor Vehicle
Code:

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1 A. "day" means calendar day, unless otherwise
2 provided in the Motor Vehicle Code;

3 B. "dealer", except as specifically excluded, means
4 any person who sells or solicits or advertises the sale of new
5 or used motor vehicles, manufactured homes or trailers subject
6 to registration in this state; "dealer" does not include:

7 (1) receivers, trustees, administrators,
8 executors, guardians or other persons appointed by or acting
9 under judgment, decree or order of any court;

10 (2) public officers while performing their
11 duties as such officers;

12 (3) persons making casual sales of their own
13 vehicles;

14 (4) finance companies, banks and other lending
15 institutions making sales of repossessed vehicles; or

16 (5) licensed brokers under the Manufactured
17 Housing Act who, for a fee, commission or other valuable
18 consideration, engage in brokerage activities related to the
19 sale, exchange or lease purchase of pre-owned manufactured
20 homes on a site installed for a consumer;

21 C. "declared gross weight" means the maximum gross
22 vehicle weight or gross combination vehicle weight at which a
23 vehicle or combination will be operated during the registration
24 period, as declared by the registrant for registration and fee
25 purposes; the vehicle or combination shall have only one

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1 declared gross weight for all operating considerations;

2 D. "department" means the taxation and revenue
3 department, the secretary of taxation and revenue or any
4 employee of the department exercising authority lawfully
5 delegated to that employee by the secretary;

6 E. "designated accessible parking space for persons
7 with significant mobility limitation" means any space,
8 including an access aisle, that is marked and reserved for the
9 parking of a passenger vehicle that carries registration plates
10 or a parking placard with the international symbol of access
11 issued in accordance with Section 66-3-16 NMSA 1978 and that is
12 designated by a conspicuously posted sign bearing the
13 international symbol of access and, if the parking space is
14 paved, by a clearly visible depiction of this symbol painted in
15 blue on the pavement of the space;

16 F. "director" means the secretary;

17 G. "disqualification" means a prohibition against
18 driving a commercial motor vehicle;

19 H. "distinguishing number" means the number
20 assigned by the department to a vehicle whose identifying
21 number has been destroyed or obliterated or the number assigned
22 by the department to a vehicle that has never had an
23 identifying number;

24 I. "distributor" means a person who distributes or
25 sells new or used motor vehicles to dealers and who is not a

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1 manufacturer;

2 J. "division", without further specification,
3 "division of motor vehicles" or "motor vehicle division" means
4 the department;

5 K. "driver" means every person who drives or is in
6 actual physical control of a motor vehicle, including a
7 motorcycle, upon a highway, who is exercising control over or
8 steering a vehicle being towed by a motor vehicle or who
9 operates or is in actual physical control of an off-highway
10 motor vehicle;

11 L. "driver's license" means a license or a class of
12 license issued by a state or other jurisdiction to an
13 individual that authorizes the individual to drive a motor
14 vehicle; ~~and~~

15 M. "driveaway-towaway operation" means an operation
16 in which any motor vehicle, new or used, is the item being
17 transported when one set or more of wheels of any such motor
18 vehicle is on the roadway during the course of transportation,
19 whether or not the motor vehicle furnishes the motive power;
20 and

21 N. "driving privilege card" means the evidence of
22 the privilege granted and issued under the Motor Vehicle Code
23 to drive a motor vehicle to a person whose privilege was
24 obtained without providing evidence of legal presence in the
25 United States. Any authority of the department with respect to

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1 a driver's license under the Motor Vehicle Code applies to a
2 driving privilege card."

3 SECTION 2. Section 66-1-4.10 NMSA 1978 (being Laws 1990,
4 Chapter 120, Section 11) is amended to read:

5 "66-1-4.10. DEFINITIONS.--As used in the Motor Vehicle
6 Code:

7 A. "laned roadway" means a roadway that is divided
8 into two or more clearly marked lanes for vehicular traffic;

9 B. "law enforcement agency designated by the
10 division" means the law enforcement agency indicated on the
11 dismantler's notification form as the appropriate agency for
12 the receipt of the appropriate copy of that form;

13 C. "license", without modification, means any
14 license, temporary instruction permit, driving privilege card
15 or temporary license issued or recognized under the laws of New
16 Mexico pertaining to the licensing of persons to operate motor
17 vehicles;

18 D. "lien" or "encumbrance" means every chattel
19 mortgage, conditional sales contract, lease, purchase lease,
20 sales lease, contract, security interest under the Uniform
21 Commercial Code or other instrument in writing having the
22 effect of a mortgage or lien or encumbrance upon, or intended
23 to hold, the title to any vehicle in the former owner,
24 possessor or grantor; and

25 E. "local authorities" means every county,

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1 municipality and any local board or body having authority to
2 enact laws relating to traffic under the constitution and laws
3 of this state."

4 SECTION 3. Section 66-5-9 NMSA 1978 (being Laws 1978,
5 Chapter 35, Section 231, as amended) is amended to read:

6 "66-5-9. APPLICATION FOR LICENSE, TEMPORARY LICENSE,
7 PROVISIONAL LICENSE, DRIVING PRIVILEGE CARD OR INSTRUCTION
8 PERMIT.--

9 A. An application for an instruction permit,
10 provisional license [~~or~~], driver's license or driving privilege
11 card shall be made upon a form furnished by the department. An
12 application shall be accompanied by the proper fee. For
13 permits, provisional licenses or driver's licenses other than
14 those issued pursuant to the New Mexico Commercial Driver's
15 License Act, submission of a complete application with payment
16 of the fee entitles the applicant to not more than three
17 attempts to pass the examination within a period of six months
18 from the date of application.

19 B. An application by a citizen or national of the
20 United States shall contain the applicant's full legal name;
21 social security number [~~or individual tax identification~~
22 ~~number~~]; date of birth; sex; and New Mexico residence address
23 of the applicant and shall briefly describe the applicant and
24 indicate whether the applicant has previously been licensed as
25 a driver and, if so, when and by what state or country and

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1 whether any such license has ever been suspended or revoked or
2 whether an application has ever been refused and, if so, the
3 date of and reason for the suspension, revocation or refusal.
4 ~~[For foreign nationals applying for driver's licenses, the~~
5 ~~secretary shall accept the individual taxpayer identification~~
6 ~~number as a substitute for a social security number regardless~~
7 ~~of immigration status.]~~ The applicant may only apply for a
8 driver's license that meets federal requirements to be accepted
9 by federal agencies for official federal purposes. The
10 secretary is authorized to establish by regulation ~~[other]~~
11 documents that may be accepted as ~~[a substitute for a social~~
12 ~~security number or an individual tax identification number]~~
13 evidence of the identity and residency of the applicant.

14 C. An application by a foreign national shall
15 contain the information, except for the social security number,
16 required in Subsection B of this section, and the applicant
17 shall provide proof of authorized legal presence in the United
18 States and may apply only for a driver's license that meets
19 federal requirements to be accepted by federal agencies for
20 official federal purposes. An applicant who is a foreign
21 national and who does not provide proof of authorized legal
22 presence in the United States shall only apply for a driving
23 privilege card.

24 D. An application by a foreign national shall
25 contain the unique identifying number of the foreign national's

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1 valid passport, valid visa, employment authorization card
2 issued under the applicant's approved deferred action status or
3 other arrival-departure record or document issued by the
4 federal government and the expiration date of the foreign
5 national's authorized period of admission, extension of stay or
6 period of approved deferred action status as demonstrated on
7 the foreign national's valid passport, valid visa, employment
8 authorization card issued under the applicant's approved
9 deferred action status or arrival-departure record or other
10 document issued by the federal government. The department may
11 issue to an eligible foreign national applicant a driver's
12 license that is valid only for the duration of the foreign
13 national's authorized period of admission, extension of stay or
14 period of approved deferred action status and that shall state
15 that it is term limited.

16 E. An applicant who is a foreign national and who
17 cannot provide proof of authorized legal presence in the United
18 States may apply only for a driving privilege card. In
19 addition to the information required in the application, except
20 for the social security number, pursuant to Subsection B of
21 this section, the applicant shall submit:

22 (1) an affidavit that the applicant:

23 (a) is currently a resident of New
24 Mexico and presents proof of New Mexico personal income tax
25 return filing for the immediately preceding year; or

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1 (b) has continuously been a resident in
2 New Mexico for the preceding two years and presents evidence of
3 New Mexico residency in the form of two documents acceptable to
4 the secretary as authorized by regulation;

5 (2) evidence that the applicant has completed
6 a driver's education course at a driver education school
7 licensed pursuant to the Driving School Licensing Act and has
8 passed a written and a driving examination administered by the
9 department;

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

16 (4) documentary evidence of the unique
17 identifying number, the applicant's individual taxpayer
18 identification number or other acceptable document as the
19 secretary authorizes by regulation.

20 [~~G.~~] F. An applicant shall indicate whether the
21 applicant has been convicted of driving while under the
22 influence of intoxicating liquor or drugs in this state or in
23 any other jurisdiction. Failure to disclose any such
24 conviction prevents the issuance of a driver's license,
25 provisional license, temporary license, driving privilege card

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1 or instruction permit for a period of one year if the failure
2 to disclose is discovered by the department prior to issuance.
3 If the nondisclosure is discovered by the department subsequent
4 to issuance, the department shall revoke the driver's license,
5 provisional license, temporary license, driving privilege card
6 or instruction permit for a period of one year. Intentional
7 and willful failure to disclose, as required in this
8 subsection, is a misdemeanor.

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

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

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

24 (3) complied with restrictions on that
25 license;

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

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

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

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

22 ~~[G-]~~ J. Whenever an application is received from a
23 person previously licensed in another jurisdiction, the
24 department may request a copy of the driver's record from the
25 other jurisdiction. When received, the driver's record may

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1 become a part of the driver's record in this state with the
2 same effect as though entered on the driver's record in this
3 state in the original instance.

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

7 ~~[I.]~~ L. This section does not apply to driver's
8 licenses issued pursuant to the New Mexico Commercial Driver's
9 License Act."

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

12 "66-5-15. LICENSES ISSUED TO APPLICANTS.--

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

23 B. The department shall establish a distinct
24 driver's license and a distinct driving privilege card. On or
25 after July 1, 2016, a driver's license issued to an applicant

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1 pursuant to Subsections B through D of Section 66-5-9 NMSA 1978
2 shall meet the federal requirements to be accepted by federal
3 agencies for official federal purposes and shall contain a
4 United States department of homeland security-approved security
5 marking in a color and design that distinguishes it from a
6 driving privilege card. On or after July 1, 2016, a driving
7 privilege card issued pursuant to Subsection E of Section
8 66-5-9 NMSA 1978 shall clearly state on the front of the
9 driving privilege card that it is not acceptable for official
10 federal purposes."

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

15 "66-5-21. EXPIRATION OF LICENSE OR DRIVING PRIVILEGE
16 CARD--LIMITED ISSUANCE PERIOD--ONE-YEAR ISSUANCE PERIOD--FOUR-
17 YEAR ISSUANCE PERIOD--EIGHT-YEAR ISSUANCE PERIOD--RENEWAL.--

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

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

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

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

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

25 (3) will not reach the age of seventy-five

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1 during the last four years of the eight-year license period or
2 reach the age of twenty-one during any year within the term of
3 the license.

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

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

13 E. A driver's license issued to a foreign national
14 shall expire on the earlier of:

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

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

20 (3) thirty days after the applicant's birthday
21 on the fourth year after the effective date of the license or
22 on the eighth year after the effective date of the license if
23 the applicant opted for a period of eight years pursuant to
24 Subsection B of this section; or

25 (4) the date, if one exists, of the foreign

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1 national's termination of authorized legal presence in the
2 United States as demonstrated on the foreign national's valid
3 passport, valid visa, employment authorization card issued
4 under the applicant's approved deferred action status or
5 arrival-departure record or other document issued by the
6 federal government; provided that if that date cannot be
7 determined by the department, the driver's license shall expire
8 one year after the effective date of the license.

9 F. A driver's license issued to a foreign national
10 is no longer valid and shall expire immediately upon the
11 revocation, termination or withdrawal of approval by the
12 federal government for the foreign national's authorized legal
13 presence in the United States or if the foreign national is no
14 longer approved for deferred action.

15 G. A driving privilege card shall expire one year
16 from the effective date of the card.

17 ~~[E.]~~ H. The ~~[director]~~ secretary may adopt
18 regulations providing for the proration of driver's license
19 fees and commercial driver's license fees due to shortened
20 licensure periods permitted pursuant to Subsection A of Section
21 66-5-19 NMSA 1978 or for licensure periods authorized pursuant
22 to the provisions of this section."

23 **SECTION 6.** Section 66-5-37 NMSA 1978 (being Laws 1978,
24 Chapter 35, Section 259, as amended) is amended to read:

25 "66-5-37. UNLAWFUL USE OF LICENSE OR DRIVING PRIVILEGE

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1 CARD.--It is a misdemeanor for any person to:

2 A. display or cause or permit to be displayed or
3 have in [~~his~~] the person's possession any canceled, revoked or
4 suspended driver's license or permit, driving privilege card or
5 commercial driver's license or permit;

6 B. lend [~~his~~] the person's driver's license or
7 permit, driving privilege card or commercial driver's license
8 or permit to any other person or knowingly permit the use of
9 [~~his~~] the person's license [~~or~~], permit or driving privilege
10 card by another;

11 C. display or represent as one's own any driver's
12 license or permit, driving privilege card or commercial
13 driver's license or permit not issued to [~~him~~] the person;

14 D. fail or refuse to surrender to the division upon
15 its lawful demand any driver's license or permit, driving
16 privilege card or commercial driver's license or permit [~~which~~]
17 that has been suspended, revoked or canceled;

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

23 F. permit any unlawful use of the driver's license
24 or permit, driving privilege card or commercial driver's
25 license or permit issued to [~~him~~] the person; or

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1 G. do any act forbidden or fail to perform any act
2 required by Sections [~~66-5-1~~] 66-5-1.1 through 66-5-47 NMSA
3 1978 or the provisions of the New Mexico Commercial Driver's
4 License Act."

5 SECTION 7. Section 66-5-47 NMSA 1978 (being Laws 1978,
6 Chapter 35, Section 269, as amended) is amended to read:

7 "66-5-47. PHOTOGRAPHS--EVIDENCE OF APPLICANT'S AGE.--

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

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

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

18 B. Each applicant for an initial license or a
19 replacement license shall produce evidence of the applicant's
20 age. Proof of an applicant's age shall be a [~~birth~~
21 ~~certificate~~] certified copy of a birth certificate [~~a church~~
22 ~~record purporting to show the date of birth and baptism, an~~
23 ~~acknowledged copy of the church record~~] filed with the vital
24 records and health statistics bureau of the department of
25 health or equivalent agency in the applicant's place of birth;

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1 a valid, unexpired United States passport; [~~or other evidence~~
2 ~~which the secretary deems sufficient~~] a valid, unexpired
3 permanent resident card issued by the United States department
4 of homeland security; an unexpired employment authorization
5 document issued by the United States department of homeland
6 security; a valid, unexpired foreign passport with a valid,
7 unexpired United States visa affixed accompanied by the
8 approved I-94 form documenting the applicant's most recent
9 admittance into the United States; a certificate of
10 naturalization issued by the United States department of
11 homeland security; a certificate of citizenship issued by the
12 United States department of homeland security; or a driver's
13 license or identification card that meets federal requirements
14 to be accepted by federal agencies for official federal
15 purposes issued in compliance with the standards established by
16 the United States department of homeland security. The
17 secretary is authorized to establish by regulation other
18 documents that may be accepted as evidence of the applicants'
19 age. The date of birth shown on [any] a driver's license or
20 [any] instruction permit issued by the department shall
21 coincide with the date of birth shown on the proof of
22 applicant's age."

23 SECTION 8. Section 66-5-401 NMSA 1978 (being Laws 1978,
24 Chapter 35, Section 328, as amended) is amended to read:

25 "66-5-401. IDENTIFICATION CARDS--APPLICATION.--

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1 A. A person who does not have a valid New Mexico
2 driver's license may be issued an identification card by the
3 department certified by the applicant as to true name, correct
4 age and other identifying data as the department may require.
5 An application for an identification card shall be made upon a
6 form furnished by the department. An application by a citizen
7 or national of the United States shall contain the applicant's
8 full legal name, social security number, date of birth, sex and
9 New Mexico residence address. Every application for an
10 identification card shall be signed by the applicant or the
11 applicant's parent or guardian. The secretary may, for good
12 cause, revoke or deny the issuance of an identification card.

13 B. An application by a foreign national for an
14 identification card shall contain the information, except for
15 the social security number, required in Subsection A of this
16 section. The application shall be for an identification card
17 intended to be accepted by federal agencies for official
18 federal purposes and shall contain the unique identifying
19 number of the foreign national's valid passport, valid visa,
20 employment authorization card issued under the applicant's
21 approved deferred action status or other arrival-departure
22 record or document issued by the federal government and the
23 expiration date of the foreign national's authorized legal
24 presence in the United States as demonstrated on the foreign
25 national's valid passport, valid visa, employment authorization

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1 card issued under the applicant's approved deferred action
2 status or arrival-departure record or other document issued by
3 the federal government. The department may issue to an
4 eligible foreign national applicant with legal presence an
5 identification card that is valid only for the duration of the
6 foreign national's authorized period of admission, extension of
7 stay or period of approved deferred action status and that
8 states that it is term limited.

9 [B-] C. Within the forms prescribed by the
10 department for identification card applications, a space shall
11 be provided to show whether the applicant is a donor as
12 provided in the Jonathan Spradling Revised Uniform Anatomical
13 Gift Act. A person applying for an identification card may
14 indicate that person's status on the space provided on the
15 application. The donor status indicated by the applicant shall
16 be displayed on the identification card. The form and
17 identification card shall be signed by the donor in the
18 presence of a witness who shall also sign the form in the
19 donor's presence."

20 SECTION 9. Section 66-5-402 NMSA 1978 (being Laws 1978,
21 Chapter 35, Section 329, as amended) is amended to read:

22 "66-5-402. PERSONS ELIGIBLE FOR IDENTIFICATION CARDS.--
23 The department shall issue an identification card only to [A-]
24 a person who is a New Mexico resident and who does not have a
25 valid [~~New Mexico driver's~~] license and only upon the applicant

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1 furnishing [~~of a birth certificate or its certified copy, a~~
2 ~~certificate of baptism, a valid passport or other evidence that~~
3 ~~the department deems sufficient as documentary]~~ evidence of the
4 applicant's age and identity. [~~of the person; or~~

5 ~~B. a person over age sixty-five who is a New Mexico~~
6 ~~resident and who is surrendering a valid New Mexico driver's~~
7 ~~license, which license shall be sufficient documentary evidence~~
8 ~~of the age and identity of the person]~~ For documentary evidence
9 of the applicant's age, the applicant shall produce a document
10 specified in Subsection B of Section 66-5-47 NMSA 1978, and for
11 evidence of the applicant's identity, the applicant shall
12 provide documentary evidence as provided in Section 66-5-401
13 NMSA 1978."

14 SECTION 10. Section 66-5-403 NMSA 1978 (being Laws 1973,
15 Chapter 269, Section 3, as amended by Laws 2010, Chapter 42,
16 Section 3 and by Laws 2010, Chapter 70, Section 3) is amended
17 to read:

18 "66-5-403. EXPIRATION OF IDENTIFICATION CARDS--DURATION--
19 RENEWAL.--

20 A. Except as provided in [~~Subsection~~] Subsections B
21 [~~or C~~] through E of this section, every identification card
22 shall be issued for a period not to exceed four years and shall
23 expire on the last day of the month of the identified person's
24 birth in the fourth year after the effective date of the
25 identification card.

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1 B. An identification card may be renewed within
2 ninety days prior to its expiration or at an earlier date
3 approved by the department. An identification card may be
4 renewed by mail or telephonic or electronic means pursuant to
5 regulations adopted by the department. The regulations shall
6 ensure adequate security measures to safeguard personal
7 information that is obtained in the issuance of an
8 identification card. An identification card that meets federal
9 requirements to be accepted by federal agencies for official
10 federal purposes issued to a foreign national who presented
11 evidence of the foreign national's authorized legal presence
12 shall not be renewed unless the applicant presents evidence
13 that the applicant is still authorized to be legally present in
14 the United States.

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

24 D. An identification card issued to a foreign
25 national who provides proof of authorized legal presence in the

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1 United States shall expire on the earlier of:

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

5 (2) thirty days after the applicant's birthday
6 on the fourth year after the effective date of the
7 identification card or on the eighth year after the effective
8 date of the identification card if the applicant opted for a
9 period of eight years pursuant to Subsection C of this section;
10 or

11 (3) the date, if one exists, of the foreign
12 national's termination of authorized period of admission or
13 extension of stay as demonstrated on the foreign national's
14 valid passport, valid visa, employment authorization card
15 issued under the applicant's approved deferred action status or
16 arrival-departure record or other document issued by the
17 federal government; provided that if that date cannot be
18 determined by the department, the identification card shall
19 expire one year after the effective date of the identification
20 card.

21 E. An identification card issued to a foreign
22 national is no longer valid and shall expire immediately upon
23 the revocation, termination or withdrawal of approval by the
24 federal government for the foreign national's authorized legal
25 presence in the United States or if the foreign national is no

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1 longer approved for deferred action status.

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

6 SECTION 11. Section 66-5-405 NMSA 1978 (being Laws 1978,
7 Chapter 35, Section 332, as amended) is amended to read:

8 "66-5-405. CONTENTS OF CARD.--~~[The identification card~~
9 ~~shall adequately describe the registrant and bear his picture~~
10 ~~that shall show a full face or front view for all registrants~~
11 ~~and]~~

12 A. On or after July 1, 2016, an identification card
13 issued to an applicant pursuant to Subsection A or B of Section
14 66-5-401 NMSA 1978 shall meet federal requirements to be
15 accepted by federal agencies for official federal purposes and
16 shall contain a United States department of homeland
17 security-approved security marking.

18 B. All identification cards shall bear the full
19 legal name, date of birth, sex, current New Mexico residence
20 address, a full-face or front-view digital photograph of the
21 identification card holder, a unique identification card
22 number, a date of issuance, an expiration date, a brief
23 description of the identification card holder and a signature
24 of the holder, and the identification card shall indicate donor
25 status. All identification cards of persons under the age of

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1 twenty-one years shall have a printed legend indicating that
2 the person is under twenty-one. The identification card shall
3 bear the following statement:

4 "STATE OF NEW MEXICO IDENTIFICATION

5 CARD NO. _____

6 This card is provided solely for the purpose of establishing
7 that the bearer described on the card was not the holder of a
8 New Mexico driver's license as of the date of issuance of this
9 card. This identification card is not a license. ISSUED FOR
10 IDENTIFICATION PURPOSES ONLY".

11 SECTION 12. Section 66-5-409 NMSA 1978 (being Laws 1991,
12 Chapter 160, Section 13) is amended to read:

13 "66-5-409. UNLAWFUL USE OF IDENTIFICATION CARD.--

14 A. It is a misdemeanor for any person to:

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

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

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

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

24 [~~(5) use a false or fictitious name in any~~
25 ~~application for an identification card or knowingly make a~~

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1 ~~false statement or conceal a material fact or otherwise commit~~
2 ~~a fraud in any such application; or~~

3 ~~(6)]~~ (5) make or permit any unlawful use of
4 the identification card issued to, or received or obtained by,
5 the person.

6 B. It is a felony for any person to:

7 (1) knowingly or willfully provide a false or
8 fictitious name in any application for an identification card
9 or knowingly make a false statement or conceal a material fact
10 or otherwise commit a fraud in any such application; or

11 (2) induce or solicit another person, or
12 conspire with another person, to violate this subsection.

13 ~~[B-]~~ C. For the purposes of this section,
14 "identification card" means an identification card issued by
15 the department pursuant to Section 66-5-401 or 66-5-404 NMSA
16 1978."

17 SECTION 13. Section 66-8-1.1 NMSA 1978 (being Laws 2007,
18 Chapter 319, Section 65) is amended to read:

19 "66-8-1.1. FRAUD ~~[IN OBTAINING DOCUMENTS ISSUED]~~ RELATED
20 TO THE ISSUANCE OF DOCUMENTS BY THE DIVISION--~~[PENALTY]~~
21 PENALTIES.--

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

24 (1) knowingly issue an identification card,
25 driver's license, driving privilege card, vehicle or vessel

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1 registration or vehicle or vessel title to a person who is not
2 lawfully entitled to issuance of that document;

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

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

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

16 B. It is a felony for an applicant to knowingly or
17 willfully provide a false name, false information or fraudulent
18 document required by Section 66-5-9 NMSA 1978 or otherwise
19 commit a fraud in an application submitted pursuant to Section
20 66-5-9 NMSA 1978.

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

22 (1) receive or obtain an instruction permit,
23 driver's license, driving privilege card or provisional license
24 and then transfer the instruction permit, driver's license,
25 driving privilege card or provisional license to another person

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1 who is not lawfully entitled to that document; or
2 (2) induce or solicit another person, or
3 conspire with another person, to violate Subsection A or B of
4 this section.

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

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

13 SECTION 14. A new section of the Motor Vehicle Code is
14 enacted to read:

15 "[NEW MATERIAL] USE OF DRIVING PRIVILEGE CARD FOR
16 IDENTIFICATION OUTSIDE OF NEW MEXICO--PROHIBITED.--A driving
17 privilege card issued to a foreign national applicant who does
18 not provide a social security number or proof of authorized
19 legal presence in the United States shall not be valid for
20 identification purposes outside the exterior boundaries of New
21 Mexico."

22 SECTION 15. A new section of the Motor Vehicle Code is
23 enacted to read:

24 "[NEW MATERIAL] FINGERPRINT AND PHOTOGRAPH SUBMISSION
25 REQUIRED FOR APPLICANTS FOR DRIVING PRIVILEGE CARDS.--

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1 A. An applicant for a driving privilege card shall
2 submit the following with the application to the department:

3 (1) fingerprints and a photograph in a sealed
4 envelope provided by the department of public safety; and

5 (2) a signed waiver from the person whose
6 fingerprints are being registered in the federal bureau of
7 investigation's next generation identification system's rap
8 back service.

9 B. The fingerprinting and photograph submission
10 required under this section shall be conducted by the
11 department of public safety or a law enforcement agency that
12 has the capability of handling fingerprint and photograph
13 submissions.

14 C. The taxation and revenue department shall submit
15 fingerprints for each person described in Subsection A of this
16 section to the department of public safety.

17 D. The department of public safety shall:

18 (1) check the fingerprints submitted under
19 Subsection A of this section against the applicable state and
20 regional criminal records databases and submit the fingerprints
21 to the national criminal records databases, including the
22 federal bureau of investigation's next generation
23 identification system;

24 (2) maintain a separate file of fingerprints
25 submitted under Subsection A of this section for search by

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1 future submissions to the local and regional criminal records
2 databases, including latent prints;

3 (3) request that the fingerprints be retained
4 in the federal bureau of investigation's next generation
5 identification system's rap back service for search by future
6 submissions to the national criminal records databases,
7 including the federal bureau of investigation's next generation
8 identification system and latent prints; and

9 (4) establish a privacy risk mitigation
10 strategy to ensure that the entity only receives notifications
11 for individuals with whom the entity maintains an authorizing
12 relationship.

13 E. Notification of any existing criminal history
14 record or existing or new warrant information and any new
15 criminal history record information entered in local, state or
16 federal databases shall be made to the federal immigration and
17 customs enforcement agency of the United States department of
18 homeland security if the person has a criminal history or
19 warrant record or a new criminal history or warrant record is
20 entered in a local, state or federal database. Upon request of
21 the federal immigration and customs enforcement, the department
22 of public safety shall inform the agency whether the person
23 whose arrest was reported was subsequently convicted of the
24 charge for which the person was arrested.

25 F. In addition to any fees imposed under the Motor

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1 Vehicle Code, the taxation and revenue department shall impose
2 on individuals submitting fingerprints pursuant to this section
3 the fees that the department of public safety is authorized to
4 collect for its fingerprinting services and remit those fees to
5 the department of public safety."

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

9 SECTION 17. EFFECTIVE DATE.--The effective date of the
10 provisions of this act is July 1, 2016.