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HOUSE BILL 123

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

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO COMPLIANCE WITH THE FEDERAL REAL ID ACT OF 2005;
PROVIDING TWO TIERS OF DRIVING DOCUMENTS AND IDENTIFICATION
CARDS; CREATING DRIVER'S LICENSES AND IDENTIFICATION CARDS THAT
MEET THE REQUIREMENTS OF THE FEDERAL REAL ID ACT OF 2005;
REQUIRING PROOF OF LAWFUL STATUS IN THE UNITED STATES FOR
APPLICANTS TO OBTAIN DRIVER'S LICENSES OR IDENTIFICATION CARDS
THAT MEET THE REQUIREMENTS OF THE FEDERAL REAL ID ACT OF 2005;
CREATING DRIVER'S CARDS AND IDENTIFICATION CARDS THAT DO NOT
MEET THE REQUIREMENTS OF THE FEDERAL REAL ID ACT OF 2005;
REQUIRING THE FINGERPRINTING OF APPLICANTS FOR DRIVER'S CARDS
AND IDENTIFICATION CARDS THAT DO NOT MEET THE REQUIREMENTS OF
THE FEDERAL REAL ID ACT OF 2005; LIMITING THE VALIDITY PERIOD
OF CERTAIN DRIVER'S LICENSES AND IDENTIFICATION CARDS;
PROVIDING FOR THE EXCHANGE AND CANCELLATION OF CERTAIN DRIVER'S
LICENSES AND IDENTIFICATION CARDS; INCREASING PENALTIES AND

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1 IMPOSING NEW PENALTIES; DECLARING AN EMERGENCY.

2

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

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

6 "66-1-4.4. DEFINITIONS.--As used in the Motor Vehicle
7 Code:

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

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

14 (1) receivers, trustees, administrators,
15 executors, guardians or other persons appointed by or acting
16 under judgment, decree or order of any court;

17 (2) public officers while performing their
18 duties as such officers;

19 (3) persons making casual sales of their own
20 vehicles;

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

23 (5) licensed brokers under the Manufactured
24 Housing Act who, for a fee, commission or other valuable
25 consideration, engage in brokerage activities related to the

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1 sale, exchange or lease purchase of pre-owned manufactured
2 homes on a site installed for a consumer;

3 C. "declared gross weight" means the maximum gross
4 vehicle weight or gross combination vehicle weight at which a
5 vehicle or combination will be operated during the registration
6 period, as declared by the registrant for registration and fee
7 purposes; the vehicle or combination shall have only one
8 declared gross weight for all operating considerations;

9 D. "department" means the taxation and revenue
10 department, the secretary of taxation and revenue or any
11 employee of the department exercising authority lawfully
12 delegated to that employee by the secretary;

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

23 F. "director" means the secretary;

24 G. "disqualification" means a prohibition against
25 driving a commercial motor vehicle;

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1 H. "distinguishing number" means the number
2 assigned by the department to a vehicle whose identifying
3 number has been destroyed or obliterated or the number assigned
4 by the department to a vehicle that has never had an
5 identifying number;

6 I. "distributor" means a person who distributes or
7 sells new or used motor vehicles to dealers and who is not a
8 manufacturer;

9 J. "division", without further specification,
10 "division of motor vehicles" or "motor vehicle division" means
11 the department;

12 K. "driver" means every person who drives or is in
13 actual physical control of a motor vehicle, including a
14 motorcycle, upon a highway, who is exercising control over or
15 steering a vehicle being towed by a motor vehicle or who
16 operates or is in actual physical control of an off-highway
17 motor vehicle;

18 L. "driver's card" means a card not intended to be
19 accepted by federal agencies for official federal purposes
20 issued or recognized under the laws of New Mexico pertaining to
21 the authorization of persons to operate motor vehicles;

22 ~~[H.]~~ M. "driver's license" means a license or a
23 class of license that meets the federal requirement to be
24 accepted by federal agencies for official federal purposes
25 issued by a state or other jurisdiction to an individual that

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1 authorizes the individual to drive a motor vehicle; and

2 [M-] N. "driveaway-towaway operation" means an
3 operation in which any motor vehicle, new or used, is the item
4 being transported when one set or more of wheels of any such
5 motor vehicle is on the roadway during the course of
6 transportation, whether or not the motor vehicle furnishes the
7 motive power."

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

10 "66-1-4.10. DEFINITIONS.--As used in the Motor Vehicle
11 Code:

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

14 B. "law enforcement agency designated by the
15 division" means the law enforcement agency indicated on the
16 dismantler's notification form as the appropriate agency for
17 the receipt of the appropriate copy of that form;

18 C. "lawful status" means the legal right to be
19 present in the United States, as that phrase is used in the
20 federal REAL ID Act of 2005;

21 [G-] D. "license", without modification, means any
22 license, [~~temporary instruction~~] permit or [~~temporary license~~]
23 card issued or recognized under the laws of New Mexico
24 pertaining to the [~~licensing~~] authorizing of persons to operate
25 motor vehicles;

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1 ~~[D-]~~ E. "lien" or "encumbrance" means every chattel
2 mortgage, conditional sales contract, lease, purchase lease,
3 sales lease, contract, security interest under the Uniform
4 Commercial Code or other instrument in writing having the
5 effect of a mortgage or lien or encumbrance upon, or intended
6 to hold, the title to any vehicle in the former owner,
7 possessor or grantor; and

8 ~~[E-]~~ F. "local authorities" means every county,
9 municipality and any local board or body having authority to
10 enact laws relating to traffic under the constitution and laws
11 of this state."

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

14 "66-5-9. APPLICATION FOR LICENSE, TEMPORARY LICENSE,
15 PROVISIONAL LICENSE, ~~[OR]~~ INSTRUCTION PERMIT OR DRIVER'S CARD
16 OR RENEWAL.--

17 A. An application for an instruction permit,
18 provisional license, ~~[or]~~ driver's license or driver's card or
19 a renewal of an instruction permit, provisional license,
20 driver's license or driver's card shall be made upon a form
21 furnished by the department. An application shall be
22 accompanied by the proper fee. For permits, provisional
23 licenses ~~[or]~~, driver's licenses or driver's cards other than
24 those issued pursuant to the New Mexico Commercial Driver's
25 License Act, submission of a complete application with payment

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1 of the fee entitles the applicant to not more than three
2 attempts to pass the examination within a period of six months
3 from the date of application.

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

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1 verify the applicant's lawful status and social security
2 number, if applicable, through a method approved by the federal
3 government.

4 C. A person with lawful status shall not apply for
5 a driver's card.

6 D. The department shall issue a driver's card to an
7 applicant who is otherwise eligible for a driver's license but
8 who does not provide proof of lawful status. An applicant who
9 does not provide proof of lawful status shall only apply for a
10 driver's card. Except as otherwise provided in the Motor
11 Vehicle Code, the department may treat driver's cards as
12 driver's licenses.

13 E. An application by a foreign national with lawful
14 status for a driver's license shall contain the unique
15 identifying number and expiration date, if applicable, of the
16 foreign national's valid passport, valid visa, employment
17 authorization card issued under the applicant's approved
18 deferred action status or other arrival-departure record or
19 document issued by the federal government that conveys lawful
20 status. The department may issue to an eligible foreign
21 national applicant a driver's license that is valid only for
22 the duration of the applicant's lawful status; provided that if
23 that date cannot be determined by the department and the
24 applicant is not a legal permanent resident, the license shall
25 expire one year after the effective date of the license.

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1 F. For an application for a driver's card, the
2 secretary shall accept as proof of the applicant's identity:

3 (1) an individual tax identification number;

4 (2) a passport from the applicant's country of
5 citizenship or an identification card, issued by the consulate
6 of Mexico in Albuquerque, New Mexico, the consulate general of
7 Mexico in El Paso, Texas, or such other foreign consulate with
8 which the department has established a reliable method of
9 verifying the authenticity of the identification card;

10 (3) a valid New Mexico license or
11 identification card; or

12 (4) a document that the secretary has
13 authorized.

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

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1 willful failure to disclose, as required in this subsection, is
2 a misdemeanor.

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

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

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

19 (3) complied with restrictions on that
20 license;

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

23 (5) not been adjudicated for an offense
24 involving the use of alcohol or drugs during the twelve-month
25 period immediately preceding the date of the application for

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1 the driver's license and that there are no pending
2 adjudications alleging an offense involving the use of alcohol
3 or drugs at the time of application.

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

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

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

24 ~~[H-]~~ L. Whenever the department receives a request
25 for a driver's record from another licensing jurisdiction, the

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1 record shall be forwarded without charge.

2 ~~[F.]~~ M. This section does not apply to ~~[driver's]~~
3 licenses issued pursuant to the New Mexico Commercial Driver's
4 License Act."

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

7 "66-5-15. LICENSES ISSUED TO APPLICANTS.--

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

18 B. The department shall ensure that driver's
19 licenses and driver's cards are distinguishable in color and
20 design.

21 C. A driver's license issued to a foreign national
22 who fails to prove that the foreign national's lawful status
23 will not expire prior to the date on which the license applied
24 for would expire but for the person being a foreign national
25 shall clearly indicate on its face and in the machine readable

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1 zone that it is temporary and shall bear the word:

2 "TEMPORARY".

3 D. A driver's card shall be labeled as a driver's
4 card and bear the statement: "FOR DRIVING ONLY. NOT VALID FOR
5 FEDERAL IDENTIFICATION OR VOTER REGISTRATION"."

6 SECTION 5. Section 66-5-21 NMSA 1978 (being Laws 1978,
7 Chapter 35, Section 243, as amended by Laws 2010, Chapter 42,
8 Section 2 and by Laws 2010, Chapter 70, Section 2) is amended
9 to read:

10 "66-5-21. EXPIRATION OF LICENSE--LIMITED ISSUANCE
11 PERIOD--FOUR-YEAR ISSUANCE PERIOD--EIGHT-YEAR ISSUANCE PERIOD--
12 RENEWAL.--

13 A. Except as provided in [~~Subsection B or D~~]
14 Subsections B through G of this section, Section 66-5-19 NMSA
15 1978 and Section 66-5-67 NMSA 1978, all driver's licenses shall
16 be issued for a period of four years, and each license shall
17 expire thirty days after the applicant's birthday in the fourth
18 year after the effective date of the license or shall expire
19 thirty days after the applicant's seventy-fifth birthday. A
20 license issued pursuant to Section 66-5-19 NMSA 1978 shall
21 expire thirty days after the applicant's birthday in the year
22 in which the license expires. Each license is renewable within
23 ninety days prior to its expiration or at an earlier date
24 approved by the department. The fee for the license shall be
25 as provided in Section 66-5-44 NMSA 1978. The department may

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1 provide for renewal by mail or telephonic or electronic means
2 of a [~~driver's~~] license issued pursuant to the provisions of
3 this subsection, pursuant to regulations adopted by the
4 department that ensure adequate security measures to safeguard
5 personal information that is obtained in the issuance of a
6 [~~driver's~~] license, except the department shall not renew by
7 mail or telephonic or electronic means a license if prohibited
8 by state or federal law or regulation. The department may
9 require an examination upon renewal of the [~~driver's~~] license.

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

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

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

17 (3) will not reach the age of seventy-five
18 during the last four years of the eight-year license period or
19 reach the age of twenty-one during any year within the term of
20 the license.

21 C. A driver's license issued pursuant to the
22 provisions of Subsection B of this section shall expire thirty
23 days after the applicant's birthday in the eighth year after
24 the effective date of the license.

25 D. A driver's license issued prior to an

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1 applicant's twenty-first birthday shall expire thirty days
2 after the applicant's twenty-first birthday. A driver's
3 license issued prior to an applicant's twenty-first birthday
4 may be issued for a period of up to five years.

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

7 (1) thirty days after the applicant's twenty-
8 first birthday, if issued prior to the applicant's twenty-first
9 birthday;

10 (2) thirty days after the applicant's seventy-
11 fifth birthday;

12 (3) thirty days after the applicant's birthday
13 in the fourth year after the effective date of the license or
14 in the eighth year after the effective date of the license if
15 the applicant opted for a period of eight years pursuant to
16 Subsection B of this section; or

17 (4) the expiration date of the applicant's
18 lawful status; provided that if that date cannot be determined
19 by the department and the applicant is not a legal permanent
20 resident, the driver's license shall expire one year after the
21 effective date of the license.

22 F. A driver's card shall expire on the earlier of:

23 (1) thirty days after the applicant's twenty-
24 first birthday, if issued prior to the applicant's twenty-first
25 birthday;

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1 (2) thirty days after the applicant's seventy-
2 fifth birthday; or

3 (3) one year after the effective date of the
4 driver's card.

5 [E-] G. The [~~director may~~] secretary shall adopt
6 regulations providing for the proration of driver's license
7 fees, driver's card fees and commercial driver's license fees
8 due to shortened licensure periods permitted pursuant to
9 Subsection A of Section 66-5-19 NMSA 1978 [~~or~~] and for
10 licensure periods authorized pursuant to the provisions of this
11 section."

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

14 "66-5-37. UNLAWFUL USE OF LICENSE OR DRIVER'S CARD.--

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

16 [A-] (1) display or cause or permit to be
17 displayed or have in [~~his~~] the person's possession any
18 canceled, revoked or suspended driver's license or permit [~~or~~],
19 commercial driver's license or permit or driver's card;

20 [B-] (2) lend [~~his~~] the person's driver's
21 license or permit [~~or~~], commercial driver's license or permit
22 or driver's card to any other person or knowingly permit the
23 use of [~~his~~] the person's license [~~or~~], permit or driver's card
24 by another;

25 (3) permit any unlawful use of the driver's

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1 license or permit, commercial driver's license or permit or
2 driver's card issued to, or received by, the person;

3 ~~[G.]~~ (4) display or represent as one's own any
4 driver's license or permit ~~[or]~~, commercial driver's license or
5 permit or driver's card not issued to ~~[him]~~ the person; or

6 (5) do any other act forbidden or fail to
7 perform any other act required by Sections 66-5-1.1 through
8 66-5-47 NMSA 1978 or the provisions of the New Mexico
9 Commercial Driver's License Act.

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

11 ~~[D.]~~ (1) fail or refuse to surrender to the
12 division upon its lawful demand any driver's license or permit,
13 ~~[or]~~ commercial driver's license or permit ~~[which]~~ or driver's
14 card that has been suspended, revoked or canceled;

15 ~~[E.—use]~~ (2) knowingly or willfully provide a
16 false or fictitious name or document in any application for a
17 driver's license or permit or commercial driver's license or
18 permit or driver's card or knowingly make a false statement or
19 knowingly conceal a material fact or otherwise commit a fraud
20 in any such application;

21 ~~[F.—permit any unlawful use of the driver's license~~
22 ~~or permit or commercial driver's license or permit issued to~~
23 ~~him; or~~

24 ~~G. do any act forbidden or fail to perform any act~~
25 ~~required by Sections 66-5-1 through 66-5-47 NMSA 1978 or the~~

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1 ~~provisions of the New Mexico Commercial Driver's License Act]~~
2 or

3 (3) induce or solicit another person or
4 conspire with another person to violate this subsection."

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 drivers,
9 subject to the following conditions:

10 [~~(1)~~] A. photographs or other reproductions of the
11 likeness of all persons shall ~~[show]~~ be a [~~full face~~] full-face
12 or [~~front view~~] front-view digital photograph; and

13 [~~(2)~~] B. 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 certificate,
21 certified copy of a birth certificate, a church record
22 purporting to show the date of birth and baptism, an
23 acknowledged copy of the church record, a valid passport or
24 other evidence which the secretary deems sufficient. The date
25 of birth shown on any driver's license or any instruction

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1 ~~permit issued by the department shall coincide with the date of~~
2 ~~birth shown on the proof of applicant's age.]"~~

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

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

6 A. A person who does not have a valid New Mexico
7 driver's license or driver's card may be issued an
8 identification card [~~by the department, certified by the~~
9 ~~applicant as to true name, correct age and other identifying~~
10 ~~data as the department may require]~~. An application for an
11 identification card or renewal of an identification card shall
12 be made upon a form furnished by the department. An
13 application shall contain the applicant's full legal name;
14 social security number, except for an applicant ineligible for
15 a social security number; date of birth; sex; and current New
16 Mexico residence address and shall briefly describe the
17 applicant. The secretary shall establish by regulation
18 documents that may be accepted as evidence of the residency of
19 the applicant. The department shall establish two distinct
20 identification cards as provided in Section 66-5-405 NMSA 1978:
21 an identification card that meets federal requirements to be
22 accepted by federal agencies for official federal purposes and
23 an identification card not intended to be accepted by federal
24 agencies for official federal purposes. A person applying for
25 or renewing an identification card that meets federal

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1 requirements to be accepted by federal agencies for official
2 federal purposes shall provide documentation required by the
3 federal government of the applicant's identity, date of birth,
4 social security number, if applicable, address of current
5 residence and lawful status. The department shall verify the
6 applicant's lawful status and social security number, if
7 applicable, through a method approved by the federal
8 government. A person with lawful status shall not apply for an
9 identification card not intended to be accepted by federal
10 agencies for official federal purposes. Every application for
11 an identification card shall be signed by the applicant or the
12 applicant's parent or guardian. The secretary may, for good
13 cause, revoke or deny the issuance of an identification card.

14 B. An application by a foreign national with lawful
15 status for an identification card that meets federal
16 requirements to be accepted by federal agencies for official
17 federal purposes shall contain the unique identifying number
18 and expiration date, if applicable, of the foreign national's
19 valid passport, valid visa, employment authorization card
20 issued under the applicant's approved deferred action status or
21 other arrival-departure record or document issued by the
22 federal government that conveys lawful status. The department
23 may issue to an eligible foreign national applicant an
24 identification card that meets federal requirements to be
25 accepted by federal agencies for official federal purposes that

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1 is valid only for the duration of the applicant's lawful
2 status; provided that if that date cannot be determined by the
3 department and the applicant is not a legal permanent resident,
4 the identification card shall expire one year after the
5 effective date of the identification card.

6 C. The department shall issue an identification
7 card not intended to be accepted by federal agencies for
8 official federal purposes to an applicant who is otherwise
9 eligible but who does not provide proof of lawful status. An
10 applicant who does not provide proof of lawful status shall
11 only apply for an identification card not intended to be
12 accepted by federal agencies for official federal purposes.
13 For an application for an identification card not intended to
14 be accepted by federal agencies for official federal purposes,
15 the secretary shall accept as proof of the applicant's
16 identity:

17 (1) an individual tax identification number;
18 (2) a passport from the applicant's country of
19 citizenship or an identification card, issued by the consulate
20 of Mexico in Albuquerque, New Mexico, the consulate general of
21 Mexico in El Paso, Texas, or such other foreign consulate with
22 which the department has established a reliable method of
23 verifying the authenticity of the identification card;

24 (3) a valid New Mexico license or
25 identification card; or

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1 (4) a document that the secretary has
2 authorized.

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

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

16 "66-5-402. PERSONS ELIGIBLE FOR IDENTIFICATION CARDS.--
17 The department ~~[shall]~~ may issue an identification card only to
18 ~~[A.]~~ a person who is a New Mexico resident and who does not
19 have a valid New Mexico ~~[driver's]~~ license ~~[and only upon the~~
20 ~~furnishing of a birth certificate or its certified copy, a~~
21 ~~certificate of baptism a valid passport or other evidence that~~
22 ~~the department deems sufficient as documentary evidence of the~~
23 ~~age and identity of the person; or~~

24 ~~B. a person over age sixty-five who is a New Mexico~~
25 ~~resident and who is surrendering a valid New Mexico driver's~~

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1 ~~license, which license shall be sufficient documentary evidence~~
2 ~~of the age and identity of the person]."~~

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

7 "66-5-403. EXPIRATION OF IDENTIFICATION CARDS--DURATION--
8 RENEWAL.--

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

15 B. An identification card may be renewed within
16 ninety days prior to its expiration or at an earlier date
17 approved by the department. An identification card may be
18 renewed by mail or telephonic or electronic means pursuant to
19 regulations adopted by the department, except the department
20 shall not renew by mail or telephonic or electronic means an
21 identification card that meets federal requirements to be
22 accepted by federal agencies for official federal purposes if
23 prohibited by state or federal law or regulation. The
24 regulations shall ensure adequate security measures to
25 safeguard personal information that is obtained in the issuance

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1 of an identification card.

2 C. At the option of the applicant for an
3 identification card, a card may be issued for a period of eight
4 years, provided that the applicant pays the amount required for
5 an identification card issued for a term of eight years. An
6 identification card issued pursuant to the provisions of this
7 subsection shall expire on the last day of the month of the
8 applicant's birth in the eighth year after the effective date
9 of the identification card. The identification card may be
10 renewed within ninety days prior to its expiration.

11 D. An identification card that meets federal
12 requirements to be accepted by federal agencies for official
13 federal purposes issued to a foreign national with lawful
14 status shall expire on the earlier of:

15 (1) the last day of the month of the
16 applicant's birth in the fourth year after the effective date
17 of the identification card or in the eighth year after the
18 effective date of the identification card if the applicant
19 opted for a period of eight years pursuant to Subsection C of
20 this section; or

21 (2) the expiration date of the applicant's
22 lawful status; provided that if that date cannot be determined
23 by the department and the applicant is not a legal permanent
24 resident, the identification card shall expire one year after
25 the effective date of the identification card.

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1 E. An identification card not intended to be
2 accepted by federal agencies for official federal purposes
3 shall expire one year after the effective date of the
4 identification card."

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

7 "66-5-405. CONTENTS OF CARD.--~~[The]~~

8 A. All identification [card] cards shall
9 ~~[adequately describe the registrant and bear his picture that~~
10 ~~shall show a full face or front view for all registrants and]~~
11 bear the full legal name, date of birth, sex, current New
12 Mexico residence address, a full-face or front-view digital
13 photograph of the identification card holder, a unique
14 identification card number, a date of issuance, an expiration
15 date, a brief description of the identification card holder and
16 the signature of the holder, and the identification card shall
17 indicate donor status. All identification cards of persons
18 under the age of twenty-one years shall have a printed legend
19 indicating that the person is under twenty-one. ~~[The]~~

20 B. An identification card not intended to be
21 accepted by federal agencies for official federal purposes
22 shall bear the [following] statement:

23 "STATE OF NEW MEXICO IDENTIFICATION
24 CARD NO. _____

25 This card is provided solely for the purpose of establishing
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1 that the bearer described on the card was not the holder of a
2 New Mexico driver's license or driver's card as of the date of
3 issuance of this card. This identification card is not a
4 license. ISSUED FOR IDENTIFICATION PURPOSES ONLY. NOT VALID
5 FOR FEDERAL IDENTIFICATION OR VOTER REGISTRATION.".

6 C. An identification card that meets federal
7 requirements to be accepted by federal agencies for official
8 federal purposes shall be distinguishable in color and design
9 from an identification card not intended to be accepted by
10 federal agencies for official federal purposes and shall bear
11 the statement:

12 "STATE OF NEW MEXICO IDENTIFICATION

13 CARD NO. _____

14 This card is provided for the purpose of establishing that the
15 bearer described on the card was not the holder of a New Mexico
16 driver's license or driver's card as of the date of issuance of
17 this card. This identification card is not a license. ISSUED
18 FOR IDENTIFICATION PURPOSES ONLY."

19 D. An identification card that meets federal
20 requirements to be accepted by federal agencies for official
21 federal purposes issued to a foreign national with lawful
22 status who fails to prove that the foreign national's lawful
23 status will not expire prior to the date on which the
24 identification card applied for would expire but for the person
25 being a foreign national shall clearly indicate on its face and

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1 in the machine readable zone that it is temporary and shall
2 bear the word "TEMPORARY"."

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

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

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

7 (1) use or possess an altered, forged or
8 fictitious identification card;

9 (2) alter or forge an identification card or
10 make a fictitious identification card;

11 (3) lend the person's identification card to
12 any other person or to knowingly permit the use of the person's
13 identification card by another;

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

16 (5) ~~[use]~~ make or permit any unlawful use of
17 the identification card issued to, or received or obtained by,
18 the person.

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

20 (1) knowingly or willfully provide a false or
21 fictitious name or document in any application for an
22 identification card or knowingly make a false statement or
23 conceal a material fact or otherwise commit a fraud in any such
24 application; or

25 [~~(6) make or permit any unlawful use of the~~

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1 ~~identification card issued to the person]~~

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

4 [B-] C. For the purposes of this section,
5 "identification card" means an identification card issued by
6 the department pursuant to Section 66-5-401 or 66-5-404 NMSA
7 1978."

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

10 "66-8-1.1. FRAUD [~~IN OBTAINING DOCUMENTS ISSUED~~] RELATED
11 TO THE ISSUANCE OF DOCUMENTS BY THE [DIVISION] DEPARTMENT--
12 [~~PENALTY~~] PENALTIES.--

13 A. It is a felony for a [~~person~~] department
14 employee or private retail agent or other contractor of the
15 department to:

16 (1) knowingly issue an identification card,
17 driver's license, driver's card, vehicle or vessel registration
18 or vehicle or vessel title to a person who is not lawfully
19 entitled to issuance of that document;

20 (2) knowingly accept and use fraudulent
21 documents as a basis for issuing an identification card,
22 driver's license, driver's card, vehicle or vessel registration
23 or vehicle or vessel title;

24 (3) knowingly alter a record of an
25 identification card, driver's license, driver's card, vehicle

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1 or vessel registration or vehicle or vessel title without legal
2 justification; or

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

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

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

13 "[NEW MATERIAL] FINGERPRINTING--BACKGROUND
14 INVESTIGATION.--The department shall adopt and implement rules
15 regarding fingerprinting and conducting background
16 investigations of applicants for driver's cards and
17 identification cards not intended to be accepted by federal
18 agencies for official federal purposes, which rules shall
19 include due process protections."

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

22 "[NEW MATERIAL] MANDATORY CANCELLATION OF LICENSES AND
23 IDENTIFICATION CARDS ISSUED TO PERSONS WITHOUT LAWFUL STATUS.--

24 A. The secretary may modify department rules as
25 necessary to cancel licenses and identification cards as

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1 provided in this section; provided that the process of
2 cancellation of a person's license or identification card
3 includes due process protections.

4 B. The department shall identify any person who was
5 issued a license or identification card prior to the effective
6 date of this 2016 act and who did not provide proof of the
7 person's lawful status. The department shall provide written
8 notice to the person that the license or identification card
9 will be canceled no later than December 31, 2016 if the person
10 fails to submit proof of the person's lawful status or submit a
11 new application pursuant to Section 66-5-9 or 66-5-401 NMSA
12 1978.

13 C. Thirty days prior to the cancellation of the
14 license or identification card, the department shall provide
15 written notice to the person that the license or identification
16 card will be canceled if proof of the person's lawful status or
17 new application, pursuant to Section 66-5-9 or 66-5-401 NMSA
18 1978, is not submitted within thirty days.

19 D. Upon cancellation, the department shall notify
20 the person in writing of the cancellation of that person's
21 license or identification card. Within twenty days of
22 receiving notice of cancellation, a person may request that the
23 department rescind the order of cancellation and afford the
24 person an opportunity to show proof of the person's lawful
25 status, identity and New Mexico residency pursuant to Section

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1 66-5-9 or 66-5-401 NMSA 1978.

2 E. Within twenty days of receipt of a request to
3 rescind the order of cancellation, the department shall provide
4 the person who made the request with an opportunity to show
5 that the person has submitted proof of the person's lawful
6 status, identity and New Mexico residency, pursuant to Section
7 66-5-9 or 66-5-401 NMSA 1978. The secretary or the secretary's
8 duly authorized agent may administer oaths. Upon a showing
9 that the person has provided proof of the person's lawful
10 status, identity and New Mexico residency, the department shall
11 reinstate the license or identification card for a period
12 pursuant to Section 66-5-21 or 66-5-403 NMSA 1978.

13 F. Issuance of a written notice pursuant to
14 Subsection A of this section shall not affect the right of a
15 person to renew a license or identification card at the
16 expiration of its term pursuant to Section 66-5-21 or 66-5-403
17 NMSA 1978; provided, however, that renewal of a license or
18 identification card shall not relieve a person of the
19 obligation to respond to that notice or preclude the department
20 from canceling a license or identification card for failure to
21 respond to that notice pursuant to this section.

22 G. Upon cancellation of a person's license or
23 identification card, the department shall reimburse to the
24 person the amount of the fee paid for the license or
25 identification card prorated for the remaining period that the

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1 license or identification card would have been valid but for
2 its cancellation."

3 SECTION 16. A new section of the Motor Vehicle Code is
4 enacted to read:

5 "[NEW MATERIAL] ISSUANCE OF DOCUMENTS THAT MEET FEDERAL
6 REQUIREMENTS TO BE ACCEPTED BY FEDERAL AGENCIES FOR OFFICIAL
7 FEDERAL PURPOSES--REIMBURSEMENT.--

8 A. On or before six months from the effective date
9 of this 2016 act, the department shall establish and issue to
10 qualified applicants licenses and identification cards that
11 meet federal requirements to be accepted by federal agencies
12 for official federal purposes. The department shall adopt the
13 general design marking known as gold star pursuant to the
14 *Department of Homeland Security REAL ID Security Plan Guidance*
15 *Handbook* to implement the provisions of this subsection.

16 B. Provided that a person provides the required
17 documentation and qualifies for the license or identification
18 card issued pursuant to Subsection A of this section, the
19 person may:

20 (1) exchange that person's valid New
21 Mexico-issued license or identification card for a license or
22 identification card issued pursuant to Subsection A of this
23 section with an identical expiration date at no cost; or

24 (2) apply for a new license or identification
25 card issued pursuant to Subsection A of this section.

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C. The secretary shall adopt regulations providing for the proration of a:

(1) refund for the remaining period that a person's license or identification card would have been valid; or

(2) credit for the remaining period that a person's license or identification card would have been valid toward the cost of a new license or identification card."

SECTION 17. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.