

HOUSE LABOR AND HUMAN RESOURCES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 103

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

AN ACT

RELATING TO DRIVER'S LICENSES; LIMITING THE ISSUANCE OF
DRIVER'S LICENSES; LIMITING THE DURATION OF DRIVER'S LICENSES
OF CERTAIN FOREIGN NATIONALS; PROVIDING FOR CANCELLATION OF
CERTAIN DRIVER'S LICENSES; REQUIRING ADDITIONAL IDENTIFICATION
AND PROOF OF RESIDENCY FOR 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.--

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

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underscored material = new
[bracketed material] = delete

1 accompanied by the proper fee. For permits, provisional
2 licenses or driver's licenses other than those issued pursuant
3 to the New Mexico Commercial Driver's License Act, submission
4 of a complete application with payment of the fee entitles the
5 applicant to not more than three attempts to pass the
6 examination within a period of six months from the date of
7 application.

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

24 C. For a foreign national applicant who does not
25 provide a social security number or proof of authorized

1 presence in the United States, the secretary shall:

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

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

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

12 (b) a form of photo identification, the
13 requirement of which shall be satisfied by a passport from the
14 applicant's country of citizenship or an identification card,
15 issued by the Mexican consulate in Albuquerque, New Mexico, or
16 El Paso, Texas, or such other foreign consulate with which the
17 department has established a reliable method of verifying the
18 authenticity of the identification card;

19 (3) accept two independent forms of proof of
20 the applicant's residency in New Mexico, the requirement of
21 which shall be satisfied by any two of the following:

22 (a) utility bills;
23 (b) bank statements;
24 (c) receipts for a mortgage or real
25 estate contract;

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- 1 (d) rental agreements;
- 2 (e) New Mexico school records; or
- 3 (f) other documents authorized by the
- 4 secretary that show the applicant's address; and

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

8 [~~G.~~] D. An applicant shall indicate whether the
9 applicant has been convicted of driving while under the
10 influence of intoxicating liquor or drugs in this state or in
11 any other jurisdiction. Failure to disclose any such
12 conviction prevents the issuance of a driver's license,
13 provisional license, temporary license or instruction permit
14 for a period of one year if the failure to disclose is
15 discovered by the department prior to issuance. If the
16 nondisclosure is discovered by the department subsequent to
17 issuance, the department shall revoke the driver's license,
18 provisional license, temporary license or instruction permit
19 for a period of one year. Intentional and willful failure to
20 disclose, as required in this subsection, is a misdemeanor.

21 [~~D.~~] E. An applicant under eighteen years of age
22 who is making an application for a first New Mexico driver's
23 license shall submit evidence that the applicant has:

- 24 (1) successfully completed a driver education
- 25 course approved by the bureau that included a DWI prevention

1 and education component. The bureau may accept verification of
2 driver education course completion from another state if the
3 driver education course substantially meets the requirements of
4 the bureau for a course offered in New Mexico;

5 (2) had a provisional license for at least the
6 twelve-month period immediately preceding the date of the
7 application for the driver's license; provided that thirty days
8 shall be added to the twelve-month period for each adjudication
9 or conviction of a traffic violation committed during the time
10 the person was driving with a provisional license;

11 (3) complied with restrictions on that
12 license;

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

15 (5) not been adjudicated for an offense
16 involving the use of alcohol or drugs during the twelve-month
17 period immediately preceding the date of the application for
18 the driver's license and that there are no pending
19 adjudications alleging an offense involving the use of alcohol
20 or drugs at the time of application.

21 [~~E.~~] F. An applicant eighteen years of age or over,
22 but under twenty-five years of age, who is making an
23 application to be granted a first New Mexico driver's license
24 shall submit evidence with the application that the applicant
25 has successfully completed a bureau-approved DWI prevention and

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1 education program.

2 ~~[F.]~~ G. An applicant twenty-five years of age or
3 over who has been convicted of driving under the influence of
4 intoxicating liquor or drugs and who is making an application
5 to be granted a first New Mexico driver's license, shall submit
6 evidence with the application that the applicant has
7 successfully completed a bureau-approved DWI prevention and
8 education program.

9 ~~[G.]~~ H. Whenever an application is received from a
10 person previously licensed in another jurisdiction, the
11 department may request a copy of the driver's record from the
12 other jurisdiction. When received, the driver's record may
13 become a part of the driver's record in this state with the
14 same effect as though entered on the driver's record in this
15 state in the original instance.

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

19 ~~[I.]~~ J. This section does not apply to driver's
20 licenses issued pursuant to the New Mexico Commercial Driver's
21 License Act."

22 **SECTION 2.** Section 66-5-15 NMSA 1978 (being Laws 1978,
23 Chapter 35, Section 237, as amended) is amended to read:

24 "66-5-15. LICENSES ISSUED TO APPLICANTS.--The department
25 shall, upon payment of the required fee, issue to every

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1 qualified applicant a driver's license as applied for. The
 2 license shall bear the full legal name, date of birth, current
 3 New Mexico physical or mailing address, a full face or front-
 4 view photograph of the license holder and a brief description
 5 of the licensee and the signature of the licensee. A license
 6 shall not be valid unless it bears the signature of the
 7 licensee."

8 **SECTION 3.** Section 66-5-21 NMSA 1978 (being Laws 1978,
 9 Chapter 35, Section 243, as amended by Laws 2010, Chapter 42,
 10 Section 2 and by Laws 2010, Chapter 70, Section 2) is amended
 11 to read:

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

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

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1 The fee for the license shall be as provided in Section 66-5-44
2 NMSA 1978. The department may provide for renewal by mail or
3 telephonic or electronic means of a driver's license issued
4 pursuant to the provisions of this subsection, pursuant to
5 regulations adopted by the department that ensure adequate
6 security measures to safeguard personal information that is
7 obtained in the issuance of a driver's license. The department
8 may require an examination upon renewal of the driver's
9 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

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 applicant who does not provide a social security number shall
 7 not be valid for a period of more than two years.

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

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

16 "66-5-44. LICENSES AND PERMITS--DURATION AND FEE--
 17 APPROPRIATION.--

18 A. There shall be paid to the department a fee of
 19 ten dollars (\$10.00) for each driver's license or duplicate
 20 driver's license, except that, for a driver's license issued
 21 for an eight-year period, a fee of twenty dollars (\$20.00)
 22 shall be paid to the department and that, for a driver's
 23 license issued for a two-year period to a foreign national
 24 applicant who does not provide a social security number, a fee
 25 of five dollars (\$5.00) shall be paid to the department. Each

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1 license shall be for a term provided for in Section 66-5-21
2 NMSA 1978.

3 B. For each permit and instruction permit, there
4 shall be paid to the department a fee of two dollars (\$2.00).
5 The term for each permit shall be as provided in Sections
6 66-5-8 and 66-5-9 NMSA 1978.

7 C. Except for fees charged pursuant to Subsection E
8 of this section, the director with the approval of the governor
9 may increase the amount of the fees provided for in this
10 section by an amount not to exceed three dollars (\$3.00) for
11 the purpose of implementing an enhanced driver's license
12 system; provided that for a driver's license issued for an
13 eight-year period, the amount of the fees shall be twice the
14 amount charged for other driver's licenses. The additional
15 amounts collected pursuant to this subsection are appropriated
16 to the department to defray the expense of the new system of
17 licensing and for use as set forth in Subsection F of Section
18 66-6-13 NMSA 1978. Unexpended or unencumbered balances
19 remaining from fees collected pursuant to the provisions of
20 this subsection at the end of any fiscal year shall not revert
21 to the general fund but shall be expended by the department in
22 fiscal year 2010 and subsequent fiscal years.

23 D. There shall be paid to the department a driver
24 safety fee of three dollars (\$3.00) for each driver's license
25 or duplicate driver's license, except that for a driver's

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1 license issued for an eight-year period, a fee of six dollars
 2 (\$6.00) shall be paid to the department. The fee shall be
 3 distributed to each school district for the purpose of
 4 providing defensive driving instruction through the state
 5 equalization guarantee distribution made annually pursuant to
 6 the general appropriation act.

7 E. The department may charge a fee of no more than
 8 fifteen dollars (\$15.00) to a person who holds a driver's
 9 license from another state and is applying for a New Mexico
 10 driver's license for the first time. The fee is appropriated
 11 to the department to defray the expense of determining whether
 12 the driver has been convicted of driving a motor vehicle while
 13 under the influence of intoxicating liquor or drugs, or
 14 equivalent crime, and determining if the person qualifies for a
 15 driver's license in this state. The fee provided in this
 16 subsection is not subject to the increase provided for in
 17 Subsection C of this section."

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

20 "66-5-44.1. PROVISIONAL LICENSES--DURATION AND FEE--
 21 APPROPRIATION.--

22 A. There shall be paid to the division a fee of
 23 thirteen dollars (\$13.00) for each provisional license or
 24 duplicate provisional license except that, for a provisional
 25 license issued for a two-year period to a foreign national

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1 applicant who does not provide a social security number, a fee
2 of six dollars fifty cents (\$6.50) shall be paid to the
3 department. Each provisional license shall be for a term
4 provided for in Section 66-5-21 NMSA 1978.

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

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

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

18 "66-8-1.1. FRAUD [~~IN OBTAINING DOCUMENTS ISSUED~~] RELATED
19 TO THE ISSUANCE OF DOCUMENTS BY THE DIVISION--[PENALTY]
20 PENALTIES.--

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

23 (1) knowingly issue an identification card,
24 driver's license, vehicle or vessel registration or vehicle or
25 vessel title to a person who is not lawfully entitled to

1 issuance of that document;

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

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

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

14 B. It is a felony for a foreign national applicant
15 to knowingly or willfully provide a false or fraudulent
16 document required by Section 66-5-9 NMSA 1978.

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

18 (1) receive or obtain an instruction permit,
19 driver's license or provisional license and then transfer the
20 instruction permit, driver's license or provisional license to
21 another person in exchange for anything of value; or

22 (2) induce or solicit another person, or
23 conspire with another person, to violate Subsection A or B of
24 this section.

25 D. A person convicted of violating Subsection A of

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1 this section is guilty of a third degree felony and shall be
2 sentenced pursuant to the provisions of Section 31-18-15 NMSA
3 1978.

4 ~~[B.]~~ E. A person convicted of violating Subsection
5 B or C of this section is guilty of a fourth degree felony and
6 shall be sentenced pursuant to the provisions of Section
7 31-18-15 NMSA 1978."

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

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

12 A. The department shall identify any person who was
13 issued an instruction permit, a driver's license or a
14 provisional license prior to July 1, 2012 without the person
15 providing the person's social security number. The department
16 shall provide written notice to the person that the instruction
17 permit, driver's license or provisional license will be
18 canceled if, within two years, the person fails to submit the
19 person's social security number or submit a new application
20 pursuant to Section 66-5-9 NMSA 1978.

21 B. Thirty days prior to the cancellation of the
22 instruction permit, driver's license or provisional license,
23 the department shall provide written notice to the person that
24 the instruction permit, driver's license or provisional license
25 will be canceled if the person's social security number or new

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1 application, pursuant to Section 66-5-9 NMSA 1978, is not
2 submitted within thirty days.

3 C. Upon cancellation, the department shall notify
4 the person in writing of the cancellation of that person's
5 instruction permit, driver's license or provisional license.
6 Within twenty days of receiving notice of cancellation, a
7 person may request that the department rescind the order of
8 cancellation and afford the person an opportunity to show that
9 the person has submitted the person's social security number or
10 individual tax identification number and proof of the person's
11 identity and proof of New Mexico residency pursuant to Section
12 66-5-9 NMSA 1978.

13 D. Within twenty days upon receipt of a request to
14 rescind the order of cancellation, the department shall provide
15 the person who made the request with an opportunity to show
16 that the person has submitted that person's social security
17 number or individual tax identification number and proof of the
18 person's identity and proof of New Mexico residency, pursuant
19 to Section 66-5-9 NMSA 1978, in the county in which the person
20 resides unless the department and the person agree to another
21 county. The secretary or the secretary's duly authorized agent
22 may administer oaths. Upon a showing that the person has
23 provided a social security number or individual tax
24 identification number and proof of the person's identity and
25 proof of New Mexico residency, the department shall reinstate

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1 the instruction permit, driver's license or provisional license
2 for a period pursuant to Section 66-5-21 NMSA 1978.

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

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

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

21 SECTION 9. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is July 1, 2012.