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HOUSE BILL 244

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

INTRODUCED BY

David C. Chavez

AN ACT

RELATING TO MOTOR VEHICLES; PROVIDING THAT INDIVIDUALS WHO ARE
ISSUED DRIVER'S LICENSES MUST BE IN THE UNITED STATES LAWFULLY;
PROVIDING FOR THE IDENTIFICATION OF UNDOCUMENTED PERSONS
THROUGH THE USE OF A GUEST DRIVER'S PERMIT; PROVIDING FOR GUEST
DRIVERS' PERMITS FOR UNDOCUMENTED PERSONS; MAKING AN
APPROPRIATION.

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

SECTION 1. A new section of the Motor Vehicle Code is
enacted to read:

"[NEW MATERIAL] GUEST DRIVER'S PERMIT.--

A. As used in this section, "undocumented guest"
means a person who:

- (1) is a resident of New Mexico;
- (2) is eighteen years of age or older;

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1 (3) is not a United States citizen and who
2 does not possess a social security number or valid
3 documentation issued by the federal government that authorizes
4 the person's presence in the United States; and

5 (4) possesses an individual taxpayer
6 identification number or other documentation that the secretary
7 may accept as a substitute for an individual taxpayer
8 identification number.

9 B. The department shall:

10 (1) issue a guest driver's permit to an
11 undocumented guest who applies for the permit and who, except
12 as otherwise provided in this section, meets all of the
13 requirements of the Motor Vehicle Code for the issuance of a
14 driver's license;

15 (2) conduct a criminal background check on an
16 applicant by taking the applicant's fingerprints and submitting
17 the fingerprint card to the department of public safety and the
18 federal bureau of investigation to verify that the applicant is
19 free of a felony conviction. This paragraph is specific
20 authorization for the department to collaborate with the
21 federal bureau of investigation for the purpose of this
22 paragraph;

23 (3) require an applicant to take a test for
24 the presence of an illegal controlled substance, administered
25 and certified at the person's expense by a facility authorized

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1 by the department in the same manner as for a safety-sensitive
2 driving position; and

3 (4) by October 1, 2012, promulgate rules to
4 carry out the provisions of this section.

5 C. An undocumented guest is not eligible for a
6 guest driver's permit if:

7 (1) the criminal background check reveals that
8 the person has been convicted of a felony or the equivalent of
9 a felony in this state if the conviction is from another
10 jurisdiction; or

11 (2) the person's test for the presence of an
12 illegal controlled substance is positive.

13 D. A guest driver's permit shall be only valid for
14 driving privileges and identification in New Mexico and shall
15 not be deemed proof of the holder's valid presence in the
16 United States. The guest driver's permit itself shall
17 conspicuously state: "This permit is only valid for driving
18 privileges and identification in New Mexico and is not proof of
19 valid presence in the United States."

20 E. Except as otherwise provided in this section, a
21 guest driver's permit shall be subject in the same manner as a
22 driver's license to the provisions of the Motor Vehicle Code.

23 F. A guest driver's permit is valid for a term of
24 one year from the date of issuance and may be renewed for one-
25 year terms; provided that all of the requirements in this

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1 section for the initial issuance of the permit are met before
2 the permit is renewed except for a driving test.

3 G. In lieu of any other fee for the issuance or
4 renewal of a driver's license, the fee for the issuance or
5 renewal of a guest driver's permit is thirty-five dollars
6 (\$35.00). The fee is appropriated to the department for
7 expenditure in fiscal year 2012 and in subsequent fiscal years
8 to help defray the expenses of the department. Unexpended or
9 unencumbered balances remaining from the fee collected pursuant
10 to the provisions of this subsection at the end of any fiscal
11 year shall not revert to the general fund."

12 SECTION 2. 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.--

16 A. An application for an instruction permit,
17 provisional license or driver's license shall be made upon a
18 form furnished by the department. An application shall be
19 accompanied by the proper fee. For permits, provisional
20 licenses or driver's licenses other than those issued pursuant
21 to the New Mexico Commercial Driver's License Act, submission
22 of a complete application with payment of the fee entitles the
23 applicant to not more than three attempts to pass the
24 examination within a period of six months from the date of
25 application.

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1 B. An application shall contain the full name,
2 social security number or individual tax identification number,
3 date and place of birth, sex and New Mexico residence address
4 of the applicant and briefly describe the applicant and
5 indicate whether the applicant has previously been licensed as
6 a driver and, if so, when and by what state or country and
7 whether any such license has ever been suspended or revoked or
8 whether an application has ever been refused and, if so, the
9 date of and reason for the suspension, revocation or refusal.
10 For ~~[foreign nationals applying for driver's licenses]~~ a
11 foreign national applicant who is not a citizen of the United
12 States but who has valid documentation issued by the federal
13 government authorizing the applicant's presence in the United
14 States, the secretary shall accept the individual taxpayer
15 identification number as a substitute for a social security
16 number ~~[regardless of immigration status]~~. The secretary is
17 authorized to establish by regulation other documents that may
18 be accepted as a substitute for a social security number or an
19 individual tax identification number for an applicant who is
20 not a citizen of the United States but who has documentation
21 issued by the federal government authorizing the applicant's
22 presence in the United States. Except as provided for a guest
23 driver's permit in Section 1 of this 2012 act, a person who is
24 a foreign national, who is not a citizen of the United States
25 and who does not have valid documentation issued by the federal

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1 government authorizing the applicant's presence in the United
2 States is not eligible for a license or permit issued by the
3 department.

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

17 D. An applicant under eighteen years of age who is
18 making an application for a first New Mexico driver's license
19 shall submit evidence that the applicant has:

20 (1) successfully completed a driver education
21 course approved by the bureau that included a DWI prevention
22 and education component. The bureau may accept verification of
23 driver education course completion from another state if the
24 driver education course substantially meets the requirements of
25 the bureau for a course offered in New Mexico;

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

7 (3) complied with restrictions on that
8 license;

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

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

17 E. An applicant eighteen years of age or over, but
18 under twenty-five years of age, who is making an application to
19 be granted a first New Mexico driver's license shall submit
20 evidence with the application that the applicant has
21 successfully completed a bureau-approved DWI prevention and
22 education program.

23 F. An applicant twenty-five years of age or over
24 who has been convicted of driving under the influence of
25 intoxicating liquor or drugs and who is making an application

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1 to be granted a first New Mexico driver's license shall submit
2 evidence with the application that the applicant has
3 successfully completed a bureau-approved DWI prevention and
4 education program.

5 G. Whenever an application is received from a
6 person previously licensed in another jurisdiction, the
7 department may request a copy of the driver's record from the
8 other jurisdiction. When received, the driver's record may
9 become a part of the driver's record in this state with the
10 same effect as though entered on the driver's record in this
11 state in the original instance.

12 H. Whenever the department receives a request for a
13 driver's record from another licensing jurisdiction, the record
14 shall be forwarded without charge.

15 I. This section does not apply to driver's licenses
16 issued pursuant to the New Mexico Commercial Driver's License
17 Act."

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

20 "[NEW MATERIAL] EXPIRATION OF LICENSES ISSUED TO CERTAIN
21 FOREIGN NATIONALS--SURRENDER OF DRIVER'S LICENSES--DRIVING
22 PERMITS.--

23 A. A driver's license issued or renewed to a
24 foreign national who did not provide with the application valid
25 documentation issued by the federal government authorizing the

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1 foreign national's presence in the United States shall expire
2 no later than December 31, 2012, notwithstanding a later
3 expiration date printed on the driver's license.

4 B. A foreign national whose driver's license
5 expires pursuant to Subsection A of this section may surrender
6 the license to the department on or prior to the expiration
7 date, in which case the department shall issue to the foreign
8 national, at no further cost to the foreign national and valid
9 until December 31, 2013, a driving permit pursuant to Section 1
10 of this 2012 act if the foreign national meets the requirements
11 for the issuance of that permit.

12 C. After December 31, 2012, a foreign national
13 subject to Subsection A of this section who did not surrender a
14 driver's license on or prior to December 31, 2012 may apply for
15 a driving permit pursuant to Section 1 of this 2012 act."

16 SECTION 4. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2012.