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SENATE BILL 256

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

INTRODUCED BY

John Arthur Smith

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 DRIVING PRIVILEGE 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 OF DRIVER'S LICENSES AND
IDENTIFICATION CARDS; RAISING THE AGE FOR ANNUAL RENEWALS OF
DRIVER'S LICENSES; INCREASING PENALTIES AND IMPOSING NEW
PENALTIES; DECLARING AN EMERGENCY.

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

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

4 "66-1-4.4. DEFINITIONS.--As used in the Motor Vehicle
5 Code:

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

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

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

15 (2) public officers while performing their
16 duties as such officers;

17 (3) persons making casual sales of their own
18 vehicles;

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

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

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

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

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

21 F. "director" means the secretary;

22 G. "disqualification" means a prohibition against
23 driving a commercial motor vehicle;

24 H. "distinguishing number" means the number
25 assigned by the department to a vehicle whose identifying

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1 number has been destroyed or obliterated or the number assigned
2 by the department to a vehicle that has never had an
3 identifying number;

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

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

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

16 L. "driver's license" means a license or a class of
17 license that meets federal requirements to be accepted by
18 federal agencies for official federal purposes issued by a
19 state or other jurisdiction to an individual that authorizes
20 the individual to drive a motor vehicle; [~~and~~]

21 M. "driveaway-towaway operation" means an operation
22 in which any motor vehicle, new or used, is the item being
23 transported when one set or more of wheels of any such motor
24 vehicle is on the roadway during the course of transportation,
25 whether or not the motor vehicle furnishes the motive power;

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1 and

2 N. "driving privilege card" means a card not
3 intended to be accepted by federal agencies for official
4 federal purposes issued or recognized under the laws of New
5 Mexico pertaining to the authorization of persons to operate
6 motor vehicles."

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

9 "66-1-4.10. DEFINITIONS.--As used in the Motor Vehicle
10 Code:

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

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

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

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

25 [~~D.~~] E. "lien" or "encumbrance" means every chattel

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1 mortgage, conditional sales contract, lease, purchase lease,
2 sales lease, contract, security interest under the Uniform
3 Commercial Code or other instrument in writing having the
4 effect of a mortgage or lien or encumbrance upon, or intended
5 to hold, the title to any vehicle in the former owner,
6 possessor or grantor; and

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

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

13 "66-5-9. APPLICATION FOR LICENSE, TEMPORARY LICENSE,
14 PROVISIONAL LICENSE, ~~[OR]~~ INSTRUCTION PERMIT OR DRIVING
15 PRIVILEGE CARD OR RENEWAL.--

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

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

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

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1 applicant's identity, date of birth, social security number, if
2 applicable, address of current residence and lawful status.
3 For an applicant for a driver's license or a renewal of a
4 driver's license, the department shall verify the applicant's
5 lawful status and social security number, if applicable,
6 through a method approved by the federal government.

7 C. A person with lawful status may apply for a
8 driver's license or a driving privilege card.

9 D. An applicant shall indicate whether the
10 applicant is applying for a driver's license or a driving
11 privilege card. The department shall issue a driving privilege
12 card to an applicant who is otherwise eligible for a driver's
13 license but who does not provide proof of lawful status. An
14 applicant who does not provide proof of lawful status shall
15 only apply for a driving privilege card. Except as otherwise
16 provided in the Motor Vehicle Code, the department may treat
17 driving privilege cards as driver's licenses.

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

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

7 F. An application for a driving privilege card
8 shall include proof of the applicant's identity and age as
9 shown by:

10 (1) a social security number or an individual
11 tax identification number;

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

18 (3) a valid New Mexico license or
19 identification card; or

20 (4) a document that the secretary has
21 authorized.

22 [~~G.~~] G. An applicant shall indicate whether the
23 applicant has been convicted of driving while under the
24 influence of intoxicating liquor or drugs in this state or in
25 any other jurisdiction. Failure to disclose any such

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

11 ~~[D-]~~ H. An applicant under eighteen years of age
12 who is making an application for a first New Mexico driver's
13 license or driving privilege card shall submit evidence that
14 the applicant has:

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

21 (2) had a provisional license for at least the
22 twelve-month period immediately preceding the date of the
23 application for the driver's license or driving privilege card;
24 provided that thirty days shall be added to the twelve-month
25 period for each adjudication or conviction of a traffic

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1 violation committed during the time the person was driving with
2 a provisional license;

3 (3) complied with restrictions on that
4 license;

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

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

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

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

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1 [~~G.~~] K. Whenever an application is received from a
2 person previously licensed in another jurisdiction, the
3 department may request a copy of the driver's record from the
4 other jurisdiction. When received, the driver's record may
5 become a part of the driver's record in this state with the
6 same effect as though entered on the driver's record in this
7 state in the original instance.

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

11 [~~I.~~] M. This section does not apply to [~~driver's~~]
12 licenses issued pursuant to the New Mexico Commercial Driver's
13 License Act."

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

16 "66-5-15. LICENSES ISSUED TO APPLICANTS.--

17 A. The department shall, upon payment of the
18 required fee, issue to every qualified applicant a [~~driver's~~]
19 license as applied for. [~~The license~~] A driving privilege card
20 shall bear the applicant's full name. A driver's license shall
21 bear the applicant's full legal name. All licenses shall bear
22 the [~~full name~~] applicant's date of birth; sex; current New
23 Mexico [~~physical or mailing~~] residence address; [~~a~~] full-face
24 or front-view digital photograph; [~~of the license holder and~~] a
25 unique license number; a date of issuance; an expiration date;

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1 a brief description of the licensee; and the signature of the
2 licensee. A license shall not be valid unless it bears the
3 signature of the licensee.

4 B. The department shall ensure that driver's
5 licenses and driving privilege cards are distinguishable in
6 color and design.

7 C. A driver's license issued to a foreign national
8 who fails to prove that the foreign national's lawful status
9 will not expire prior to the date on which the license applied
10 for would expire but for the person being a foreign national
11 shall clearly indicate on its face and in the machine readable
12 zone that it is temporary and shall bear the word "TEMPORARY".

13 D. A driving privilege card shall bear the
14 statement: "NOT FOR FEDERAL PURPOSES."."

15 SECTION 5. Section 66-5-19 NMSA 1978 (being Laws 1978,
16 Chapter 35, Section 241, as amended) is amended to read:

17 "66-5-19. RESTRICTED LICENSES.--

18 A. The division, upon issuing a [~~driver's license~~
19 ~~or a provisional~~] license, may, whenever good cause appears,
20 impose restrictions, including the shortening of the licensure
21 period suitable to the licensee's driving ability with respect
22 to the type of or special mechanical control devices required
23 on a motor vehicle that the licensee may operate or such other
24 restrictions applicable to the licensee as the division
25 determines to be appropriate to ensure the safe operation of a

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1 motor vehicle by the licensee.

2 B. At age [~~seventy-five~~] seventy-nine and
3 thereafter, the applicant shall renew the applicant's license
4 on a yearly basis at no cost to the applicant.

5 C. The division may either issue a special
6 restricted license or may set forth such restrictions upon the
7 usual license form.

8 D. The division may issue a restricted license or a
9 restricted provisional license for driving during daylight
10 hours only to some visually impaired persons who fail the usual
11 eyesight test. The health standards advisory board created
12 pursuant to the provisions of Section 66-5-6 NMSA 1978 shall
13 evaluate the extent of the visual impairment and the
14 impairment's effect on the driving ability of the applicant
15 and, based on the board's recommendations, the director may
16 issue a restricted license under the following conditions:

17 (1) the applicant has no record of moving
18 violations;

19 (2) the necessity of the license is shown to
20 the satisfaction of the director; and

21 (3) the applicant satisfies the provisions of
22 Section 66-5-206 NMSA 1978 relating to proof of financial
23 responsibility.

24 E. The division may, upon receiving satisfactory
25 evidence of any violation of the restrictions of the license,

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1 suspend the license, but the licensee is entitled to a hearing
2 as upon a suspension under Sections 66-5-1.1 through 66-5-47
3 NMSA 1978 and as provided in the Administrative Hearings Office
4 Act.

5 F. It is a misdemeanor for any person to operate a
6 motor vehicle in any manner in violation of the restrictions
7 imposed in a restricted license issued to the person."

8 SECTION 6. 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--LIMITED ISSUANCE
13 PERIOD--FOUR-YEAR ISSUANCE PERIOD--EIGHT-YEAR ISSUANCE PERIOD--
14 RENEWAL.--

15 A. Except as provided in [~~Subsection B or D~~]
16 Subsections B through G of this section, Section 66-5-19 NMSA
17 1978 and Section 66-5-67 NMSA 1978, all [~~driver's~~] licenses
18 shall be issued for a period of four years, and each license
19 shall expire thirty days after the applicant's birthday in the
20 fourth year after the effective date of the license or shall
21 expire thirty days after the applicant's [~~seventy-fifth~~]
22 seventy-ninth birthday. A license issued pursuant to Section
23 66-5-19 NMSA 1978 shall expire thirty days after the
24 applicant's birthday in the year in which the license expires;
25 provided that a license shall not be valid for a period of more

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1 than eight years. Each license is renewable within ninety days
2 prior to its expiration or at an earlier date approved by the
3 department. The fee for the license shall be as provided in
4 Section 66-5-44 NMSA 1978. The department may provide for
5 renewal by mail or telephonic or electronic means of a
6 [~~driver's~~] license issued pursuant to the provisions of this
7 subsection, pursuant to regulations adopted by the department
8 that ensure adequate security measures to safeguard personal
9 information that is obtained in the issuance of a [~~driver's~~]
10 license, except the department shall not renew by mail or
11 telephonic or electronic means a license if prohibited by
12 federal law. The department may require an examination upon
13 renewal of the [~~driver's~~] license.

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

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

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

21 (3) will not reach the age of [~~seventy-five~~]
22 seventy-nine during the last four years of the eight-year
23 license period or reach the age of twenty-one during any year
24 within the term of the license.

25 C. A driver's license issued pursuant to the

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1 provisions of Subsection B of this section shall expire [~~thirty~~
2 ~~days after the applicant's birthday in the eighth year~~] eight
3 years after the effective date of the license.

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

9 E. A driver's license issued to a foreign national
10 shall expire on the earliest of:

11 (1) thirty days after the applicant's twenty-
12 first birthday, if issued prior to the applicant's twenty-first
13 birthday;

14 (2) thirty days after the applicant's seventy-
15 ninth birthday;

16 (3) thirty days after the applicant's birthday
17 in the fourth year after the effective date of the license or
18 eight years after the effective date of the license if the
19 applicant opted for a period of eight years pursuant to
20 Subsection B of this section; or

21 (4) 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 driver's license shall expire one year after the
25 effective date of the license.

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1 F. A driving privilege card shall expire on the
2 earliest of:

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

6 (2) thirty days after the applicant's seventy-
7 ninth birthday; or

8 (3) thirty days after the applicant's birthday
9 in the second year after the effective date of the driving
10 privilege card.

11 ~~[E.]~~ G. The ~~[director may]~~ secretary shall adopt
12 regulations providing for the proration of driver's license
13 fees, driving privilege card fees and commercial driver's
14 license fees due to shortened licensure periods permitted
15 pursuant to Subsection A of Section 66-5-19 NMSA 1978 ~~[or]~~ and
16 for licensure periods authorized pursuant to the provisions of
17 this section."

18 SECTION 7. Section 66-5-37 NMSA 1978 (being Laws 1978,
19 Chapter 35, Section 259, as amended) is amended to read:

20 "66-5-37. UNLAWFUL USE OF LICENSE.--

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

22 ~~[A.]~~ (1) display or cause or permit to be
23 displayed or have in ~~[his]~~ the person's possession any
24 canceled, revoked or suspended driver's license or permit ~~[or]~~,
25 commercial driver's license or permit or driving privilege

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1 card;

2 [B-] (2) lend [~~his~~] the person's driver's
3 license or permit [~~or~~], commercial driver's license or permit
4 or driving privilege card to any other person or knowingly
5 permit the use of [~~his~~] the person's license [~~or~~], permit or
6 driving privilege card by another;

7 (3) permit any unlawful use of the driver's
8 license or permit, commercial driver's license or permit or
9 driving privilege card issued to, or received by, the person;

10 [G-] (4) display or represent as one's own any
11 driver's license or permit [~~or~~], commercial driver's license or
12 permit or driving privilege card not issued to [~~him~~] the
13 person; or

14 (5) do any other act forbidden or fail to
15 perform any other act required by Sections 66-5-1.1 through
16 66-5-47 NMSA 1978 or the provisions of the New Mexico
17 Commercial Driver's License Act.

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

19 [D-] (1) fail or refuse to surrender to the
20 division upon its lawful demand any driver's license or permit,
21 [~~or~~] commercial driver's license or permit [~~which~~] or driving
22 privilege card that has been suspended, revoked or canceled;

23 [E.—use] (2) knowingly or willfully provide a
24 false or fictitious name or document in any application for a
25 driver's license or permit or commercial driver's license or

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1 permit or driving privilege card or knowingly make a false
2 statement or knowingly conceal a material fact or otherwise
3 commit a fraud in any such application;

4 ~~[F. permit any unlawful use of the driver's license~~
5 ~~or permit or commercial driver's license or permit issued to~~
6 ~~him; or~~

7 ~~G. do any act forbidden or fail to perform any act~~
8 ~~required by Sections 66-5-1 through 66-5-47 NMSA 1978 or the~~
9 ~~provisions of the New Mexico Commercial Driver's License Act]~~
10 or

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

13 SECTION 8. Section 66-5-47 NMSA 1978 (being Laws 1978,
14 Chapter 35, Section 269, as amended) is amended to read:

15 "66-5-47. PHOTOGRAPHS [~~EVIDENCE OF APPLICANT'S AGE~~].--
16 [~~A.~~] The department shall reproduce the likeness of drivers,
17 subject to the following conditions:

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

21 [~~(2)~~] B. photographs or other reproductions of the
22 likeness of all persons under the age of twenty-one years shall
23 have a printed legend, indicating that the person is under
24 twenty-one, which shall be displayed in such manner as to be
25 easily read by any person inspecting the license.

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1 ~~[B. Each applicant for an initial license or a~~
2 ~~replacement license shall produce evidence of the applicant's~~
3 ~~age. Proof of an applicant's age shall be a birth certificate,~~
4 ~~certified copy of a birth certificate, a church record~~
5 ~~purporting to show the date of birth and baptism, an~~
6 ~~acknowledged copy of the church record, a valid passport or~~
7 ~~other evidence which the secretary deems sufficient. The date~~
8 ~~of birth shown on any driver's license or any instruction~~
9 ~~permit issued by the department shall coincide with the date of~~
10 ~~birth shown on the proof of applicant's age.]"~~

11 SECTION 9. Section 66-5-401 NMSA 1978 (being Laws 1978,
12 Chapter 35, Section 328, as amended) is amended to read:

13 "66-5-401. IDENTIFICATION CARDS--APPLICATION.--

14 A. A person who does not have a valid New Mexico
15 driver's license or driving privilege card may be issued an
16 identification card by the department [~~certified by the~~
17 ~~applicant as to true name, correct age and other identifying~~
18 ~~data as the department may require]. An application for an
19 identification card or renewal of an identification card shall
20 be made upon a form furnished by the department. An
21 application for an identification card not intended to be
22 accepted by federal agencies for official federal purposes
23 shall contain the applicant's full name. An application for an
24 identification card that meets federal requirements to be
25 accepted by federal agencies for official federal purposes~~

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1 shall contain the applicant's full legal name. All
2 applications for identification cards shall contain the
3 applicant's date of birth; sex; and current New Mexico
4 residence address and shall briefly describe the applicant.
5 The secretary shall establish by regulation documents that may
6 be accepted as evidence of the residency of the applicant. The
7 department shall establish two distinct identification cards as
8 provided in Section 66-5-405 NMSA 1978: an identification card
9 that meets federal requirements to be accepted by federal
10 agencies for official federal purposes and an identification
11 card not intended to be accepted by federal agencies for
12 official federal purposes. A person applying for or renewing
13 an identification card that meets federal requirements to be
14 accepted by federal agencies for official federal purposes
15 shall provide documentation required by the federal government
16 of the applicant's identity, date of birth, social security
17 number, if applicable, address of current residence and lawful
18 status. The department shall verify the applicant's lawful
19 status and social security number, if applicable, through a
20 method approved by the federal government. A person with
21 lawful status may apply for an identification card that meets
22 federal requirements to be accepted by federal agencies for
23 official federal purposes or an identification card not
24 intended to be accepted by federal agencies for official
25 federal purposes. Every application for an identification card

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1 shall be signed by the applicant or the applicant's parent or
2 guardian. The secretary may, for good cause, revoke or deny
3 the issuance of an identification card.

4 B. An application by a foreign national with lawful
5 status for an identification card that meets federal
6 requirements to be accepted by federal agencies for official
7 federal purposes shall contain the unique identifying number
8 and expiration date, if applicable, of the foreign national's
9 valid passport, valid visa, employment authorization card
10 issued under the applicant's approved deferred action status or
11 other arrival-departure record or document issued by the
12 federal government that conveys lawful status. The department
13 may issue to an eligible foreign national applicant an
14 identification card that meets federal requirements to be
15 accepted by federal agencies for official federal purposes that
16 is valid for a period not to exceed the duration of the
17 applicant's lawful status; provided that if that date cannot be
18 determined by the department and the applicant is not a legal
19 permanent resident, the identification card shall expire one
20 year after the effective date of the identification card.

21 C. The department shall issue an identification
22 card not intended to be accepted by federal agencies for
23 official federal purposes to an applicant who is otherwise
24 eligible but who does not provide proof of lawful status. An
25 applicant who does not provide proof of lawful status shall

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1 only apply for an identification card not intended to be
2 accepted by federal agencies for official federal purposes.
3 For an application for an identification card not intended to
4 be accepted by federal agencies for official federal purposes,
5 the secretary shall accept as proof of the applicant's identity
6 and age:

7 (1) a social security number or an individual
8 tax identification number;

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

15 (3) a valid New Mexico license or
16 identification card; or

17 (4) a document that the secretary has
18 authorized.

19 D. The secretary may adopt resolutions providing
20 for the proration of fees due to shortened validity periods
21 authorized pursuant to the provision of this section.

22 [~~B-~~] E. Within the forms prescribed by the
23 department for identification card applications, a space shall
24 be provided to show whether the applicant is a donor as
25 provided in the Jonathan Spradling Revised Uniform Anatomical

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1 Gift Act. A person applying for an identification card may
2 indicate that person's status on the space provided on the
3 application. The donor status indicated by the applicant shall
4 be displayed on the identification card. The form and
5 identification card shall be signed by the donor in the
6 presence of a witness who shall also sign the form in the
7 donor's presence."

8 SECTION 10. Section 66-5-402 NMSA 1978 (being Laws 1978,
9 Chapter 35, Section 329, as amended) is amended to read:

10 "66-5-402. PERSONS ELIGIBLE FOR IDENTIFICATION CARDS.--
11 The department [~~shall~~] may issue an identification card only to
12 [~~A.~~] a person who is a New Mexico resident and who does not
13 have a valid New Mexico [~~driver's~~] license [~~and only upon the~~
14 ~~furnishing of a birth certificate or its certified copy, a~~
15 ~~certificate of baptism a valid passport or other evidence that~~
16 ~~the department deems sufficient as documentary evidence of the~~
17 ~~age and identity of the person; or~~

18 ~~B. a person over age sixty-five who is a New Mexico~~
19 ~~resident and who is surrendering a valid New Mexico driver's~~
20 ~~license, which license shall be sufficient documentary evidence~~
21 ~~of the age and identity of the person]."~~

22 SECTION 11. Section 66-5-403 NMSA 1978 (being Laws 1973,
23 Chapter 269, Section 3, as amended by Laws 2010, Chapter 42,
24 Section 3 and by Laws 2010, Chapter 70, Section 3) is amended
25 to read:

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1 "66-5-403. EXPIRATION OF IDENTIFICATION CARDS--DURATION--
2 RENEWAL.--

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

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

20 C. At the option of the applicant for an
21 identification card, a card may be issued for a period of eight
22 years, provided that the applicant pays the amount required for
23 an identification card issued for a term of eight years. An
24 identification card issued pursuant to the provisions of this
25 subsection shall expire [~~on the last day of the month of the~~

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1 ~~applicant's birth in the eighth year]~~ eight years after the
2 effective date of the identification card. The identification
3 card may be renewed within ninety days prior to its expiration.

4 D. An identification card that meets federal
5 requirements to be accepted by federal agencies for official
6 federal purposes issued to a foreign national with lawful
7 status shall expire on the earliest of:

8 (1) the last day of the month of the
9 applicant's birth in the fourth year after the effective date
10 of the identification card or eight years after the effective
11 date of the identification card if the applicant opted for a
12 period of eight years pursuant to Subsection C of this section;
13 or

14 (2) the expiration date of the applicant's
15 lawful status; provided that if that date cannot be determined
16 by the department and the applicant is not a legal permanent
17 resident, the identification card shall expire one year after
18 the effective date of the identification card.

19 E. An identification card not intended to be
20 accepted by federal agencies for official federal purposes
21 shall expire on the last day of the month of the applicant's
22 birth in the second year after the effective date of the
23 identification card."

24 **SECTION 12.** Section 66-5-405 NMSA 1978 (being Laws 1978,
25 Chapter 35, Section 332, as amended) is amended to read:

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1 "66-5-405. CONTENTS OF CARD.--~~[The identification card~~
2 ~~shall adequately describe the registrant and bear his picture~~
3 ~~that shall show a full face or front view for all registrants~~
4 ~~and]~~

5 A. An identification card not intended to be
6 accepted by federal agencies for official federal purposes
7 shall bear the applicant's full name. An identification card
8 that meets federal requirements to be accepted by federal
9 agencies for official federal purposes shall bear the
10 applicant's full legal name. All identification cards shall
11 bear the date of birth; sex; current New Mexico residence
12 address; full-face or front-view digital photograph of the
13 identification card holder; a unique identification card
14 number; a date of issuance; an expiration date; a brief
15 description of the identification card holder and the signature
16 of the holder, and the identification card shall indicate donor
17 status. All identification cards of persons under the age of
18 twenty-one years shall have a printed legend indicating that
19 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 as of the date of issuance of this
3 card. This identification card is not a license. ISSUED FOR
4 IDENTIFICATION PURPOSES ONLY. NOT FOR FEDERAL PURPOSES.".

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

11 "STATE OF NEW MEXICO IDENTIFICATION

12 CARD NO. _____

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

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

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1 bear the word "TEMPORARY"."

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

4 "66-5-409. UNLAWFUL USE OF IDENTIFICATION CARD.--

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

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

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

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

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

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

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

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

24 [~~(6) make or permit any unlawful use of the~~
25 ~~identification card issued to the person]~~

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

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

7 SECTION 14. Section 66-8-1.1 NMSA 1978 (being Laws 2007,
8 Chapter 319, Section 65) is amended to read:

9 "66-8-1.1. FRAUD [~~IN OBTAINING DOCUMENTS ISSUED~~] RELATED
10 TO THE ISSUANCE OF DOCUMENTS BY THE [DIVISION--PENALTY]
11 DEPARTMENT--PENALTIES.--

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

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

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

23 (3) knowingly alter a record of an
24 identification card, driver's license, driving privilege card,
25 vehicle or vessel registration or vehicle or vessel title

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1 without legal justification; or

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

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

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

12 "[NEW MATERIAL] ISSUANCE OF DOCUMENTS THAT MEET FEDERAL
13 REQUIREMENTS TO BE ACCEPTED BY FEDERAL AGENCIES FOR OFFICIAL
14 FEDERAL PURPOSES--REIMBURSEMENT.--

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

23 B. Provided that a person provides the required
24 documentation and qualifies for the license or identification
25 card issued pursuant to Subsection A of this section, the

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1 person may:

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

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

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

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

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

16 SECTION 16. EMERGENCY.--It is necessary for the public
17 peace, health and safety that this act take effect immediately.