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SENATE BILL 235

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

INTRODUCED BY

Timothy Z. Jennings

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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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, including a  
25 foreign national serving in the armed forces of the United

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1 States, who does not provide a social security number or proof  
2 of authorized presence in the United States, the secretary  
3 shall:

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

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

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

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

21 (3) accept two independent forms of proof of  
22 the applicant's residency in New Mexico for the last six  
23 consecutive months, the requirement of which shall be satisfied  
24 by any two of the following:

25 (a) utility bills;

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- 1                                    (b) bank statements;  
2                                    (c) receipts for a mortgage or real  
3 estate contract;  
4                                    (d) rental agreements;  
5                                    (e) New Mexico school records; or  
6                                    (f) other documents authorized by the  
7 secretary that show the applicant's address;  
8                                    (4) require a signed and notarized declaration  
9 made by the applicant that all documents provided by the  
10 applicant with the application are genuine and accurate; and  
11                                    (5) require the applicant to be fingerprinted  
12 and to provide two fingerprint cards or the equivalent  
13 electronic fingerprints to the department.

14                                    [~~G.~~] D. 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 provisional license, temporary license or instruction permit  
20 for a period of one year if the failure to disclose is  
21 discovered by the department prior to issuance. If the  
22 nondisclosure is discovered by the department subsequent to  
23 issuance, the department shall revoke the driver's license,  
24 provisional license, temporary license or instruction permit  
25 for a period of one year. Intentional and willful failure to

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1 disclose, as required in this subsection, is a misdemeanor.

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

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

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

17 (3) complied with restrictions on that  
18 license;

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

21 (5) not been adjudicated for an offense  
22 involving the use of alcohol or drugs during the twelve-month  
23 period immediately preceding the date of the application for  
24 the driver's license and that there are no pending  
25 adjudications alleging an offense involving the use of alcohol

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1 or drugs at the time of application.

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

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

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

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

25 [~~I.~~] J. This section does not apply to driver's

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1 licenses issued pursuant to the New Mexico Commercial Driver's  
2 License Act."

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

5 "66-5-15. LICENSES ISSUED TO APPLICANTS.--The department  
6 shall, upon payment of the required fee, issue to every  
7 qualified applicant a driver's license as applied for. The  
8 license shall bear the full legal name, date of birth, current  
9 New Mexico physical or mailing address, a full face or front-  
10 view photograph of the license holder and a brief description  
11 of the licensee and the signature of the licensee. A license  
12 shall not be valid unless it bears the signature of the  
13 licensee."

14 SECTION 3. Section 66-5-21 NMSA 1978 (being Laws 1978,  
15 Chapter 35, Section 243, as amended by Laws 2010, Chapter 42,  
16 Section 2 and by Laws 2010, Chapter 70, Section 2) is amended  
17 to read:

18 "66-5-21. EXPIRATION OF LICENSE--FOUR-YEAR ISSUANCE  
19 PERIOD--EIGHT-YEAR ISSUANCE PERIOD--LIMITED ISSUANCE  
20 PERIOD--RENEWAL.--

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

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1 date of the license or shall expire thirty days after the  
2 applicant's seventy-fifth birthday. A license issued pursuant  
3 to Section 66-5-19 NMSA 1978 shall expire thirty days after the  
4 applicant's birthday in the year in which the license expires.  
5 Each license is renewable within ninety days prior to its  
6 expiration or at an earlier date approved by the department.  
7 The fee for the license shall be as provided in Section 66-5-44  
8 NMSA 1978. The department may provide for renewal by mail or  
9 telephonic or electronic means of a driver's license issued  
10 pursuant to the provisions of this subsection, pursuant to  
11 regulations adopted by the department that ensure adequate  
12 security measures to safeguard personal information that is  
13 obtained in the issuance of a driver's license. The department  
14 may require an examination upon renewal of the driver's  
15 license.

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

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

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

23 (3) will not reach the age of seventy-five  
24 during the last four years of the eight-year license period or  
25 reach the age of twenty-one during any year within the term of

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1 the license.

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

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

11 E. A driver's license issued to a foreign national  
12 applicant who does not provide a social security number shall  
13 not be valid for a period of more than two years.

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

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

22 "66-5-44. LICENSES AND PERMITS--DURATION AND FEE--  
23 APPROPRIATION.--

24 A. There shall be paid to the department a fee of  
25 ten dollars (\$10.00) for each driver's license or duplicate

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1 driver's license, except that, for a driver's license issued  
2 for an eight-year period, a fee of twenty dollars (\$20.00)  
3 shall be paid to the department and that, for a driver's  
4 license issued for a two-year period to a foreign national  
5 applicant who does not provide a social security number, a fee  
6 of five dollars (\$5.00) shall be paid to the department. Each  
7 license shall be for a term provided for in Section 66-5-21  
8 NMSA 1978.

9 B. For each permit and instruction permit, there  
10 shall be paid to the department a fee of two dollars (\$2.00).  
11 The term for each permit shall be as provided in Sections  
12 66-5-8 and 66-5-9 NMSA 1978.

13 C. Except for fees charged pursuant to Subsection E  
14 of this section, the director with the approval of the governor  
15 may increase the amount of the fees provided for in this  
16 section by an amount not to exceed three dollars (\$3.00) for  
17 the purpose of implementing an enhanced driver's license  
18 system; provided that for a driver's license issued for an  
19 eight-year period, the amount of the fees shall be twice the  
20 amount charged for other driver's licenses. The additional  
21 amounts collected pursuant to this subsection are appropriated  
22 to the department to defray the expense of the new system of  
23 licensing and for use as set forth in Subsection F of Section  
24 66-6-13 NMSA 1978. Unexpended or unencumbered balances  
25 remaining from fees collected pursuant to the provisions of

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1 this subsection at the end of any fiscal year shall not revert  
2 to the general fund but shall be expended by the department in  
3 fiscal year 2010 and subsequent fiscal years.

4 D. There shall be paid to the department a driver  
5 safety fee of three dollars (\$3.00) for each driver's license  
6 or duplicate driver's license, except that for a driver's  
7 license issued for an eight-year period, a fee of six dollars  
8 (\$6.00) shall be paid to the department. The fee shall be  
9 distributed to each school district for the purpose of  
10 providing defensive driving instruction through the state  
11 equalization guarantee distribution made annually pursuant to  
12 the general appropriation act.

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

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

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1 "66-5-44.1. PROVISIONAL LICENSES--DURATION AND FEE--  
2 APPROPRIATION.--

3 A. There shall be paid to the division a fee of  
4 thirteen dollars (\$13.00) for each provisional license or  
5 duplicate provisional license except that, for a provisional  
6 license issued for a two-year period to a foreign national  
7 applicant who does not provide a social security number, a fee  
8 of six dollars fifty cents (\$6.50) shall be paid to the  
9 department. Each provisional license shall be for a term  
10 provided for in Section 66-5-21 NMSA 1978.

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

18 C. The fees collected pursuant to the provisions of  
19 Subsection A of this section are appropriated to the division  
20 to defray the expense of implementing the new system of  
21 provisional licensing."

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

24 "66-8-1.1. FRAUD [~~IN OBTAINING DOCUMENTS ISSUED~~] RELATED  
25 TO THE ISSUANCE OF DOCUMENTS BY THE DIVISION--[~~PENALTY~~]

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1 PENALTIES.--

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

4 (1) knowingly issue an identification card,  
5 driver's license, vehicle or vessel registration or vehicle or  
6 vessel title to a person who is not lawfully entitled to  
7 issuance of that document;

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

12 (3) knowingly alter a record of an  
13 identification card, driver's license, vehicle or vessel  
14 registration or vehicle or vessel title without legal  
15 justification; or

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

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

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

24 (1) receive or obtain an instruction permit,  
25 driver's license or provisional license and then transfer the

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1 instruction permit, driver's license or provisional license to  
2 another person in exchange for anything of value; or

3 (2) induce or solicit another person, or  
4 conspire with another person, to violate Subsection A or B of  
5 this section.

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

10 ~~[B-]~~ E. A person convicted of violating Subsection  
11 B or C of this section is guilty of a fourth degree felony and  
12 shall be sentenced pursuant to the provisions of Section  
13 31-18-15 NMSA 1978."

14 SECTION 7. A new section of the Motor Vehicle Code is  
15 enacted to read:

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

18 A. The department shall identify any person who was  
19 issued an instruction permit, a driver's license or a  
20 provisional license prior to July 1, 2012 without the person  
21 providing the person's social security number. The department  
22 shall provide written notice to the person that the instruction  
23 permit, driver's license or provisional license will be  
24 canceled if, within two years, the person fails to submit the  
25 person's social security number or submit a new application

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1 pursuant to Section 66-5-9 NMSA 1978.

2 B. Thirty days prior to the cancellation of the  
3 instruction permit, driver's license or provisional license,  
4 the department shall provide written notice to the person that  
5 the instruction permit, driver's license or provisional license  
6 will be canceled if the person's social security number or new  
7 application, pursuant to Section 66-5-9 NMSA 1978, is not  
8 submitted within thirty days.

9 C. Upon cancellation, the department shall notify  
10 the person in writing of the cancellation of that person's  
11 instruction permit, driver's license or provisional license.  
12 Within twenty days of receiving notice of cancellation, a  
13 person may request that the department rescind the order of  
14 cancellation and afford the person an opportunity to show that  
15 the person has submitted the person's social security number or  
16 individual tax identification number and proof of the person's  
17 identity and proof of New Mexico residency pursuant to Section  
18 66-5-9 NMSA 1978.

19 D. Within twenty days upon receipt of a request to  
20 rescind the order of cancellation, the department shall provide  
21 the person who made the request with an opportunity to show  
22 that the person has submitted that person's social security  
23 number or individual tax identification number and proof of the  
24 person's identity and proof of New Mexico residency, pursuant  
25 to Section 66-5-9 NMSA 1978, in the county in which the person

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1 resides unless the department and the person agree to another  
2 county. The secretary or the secretary's duly authorized agent  
3 may administer oaths. Upon a showing that the person has  
4 provided a social security number or individual tax  
5 identification number and proof of the person's identity and  
6 proof of New Mexico residency, the department shall reinstate  
7 the instruction permit, driver's license or provisional license  
8 for a period pursuant to Section 66-5-21 NMSA 1978.

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

17 F. Upon cancellation of a person's instruction  
18 permit, driver's license or provisional license, the department  
19 shall reimburse to the person the amount of the fee paid for  
20 the instruction permit, driver's license or provisional license  
21 prorated for the remaining period that the instruction permit,  
22 driver's license or provisional license would have been valid  
23 but for its cancellation."

24 SECTION 8. SEVERABILITY.--If any part or application of  
25 this act is held invalid, the remainder or its application to

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1 other situations or persons shall not be affected.

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

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