

SPONSOR: Sen. Townsend & Sen. Marshall & Rep. Keeley & Rep. Miro
Reps. Barbieri, Baumbach, Kowalko, Lynn, Bolden;
Sens. McBride & Simpson

DELAWARE STATE SENATE
148th GENERAL ASSEMBLY

SENATE BILL NO. 59

AN ACT TO AMEND TITLES 11 AND 21 OF THE DELAWARE CODE RELATING TO TEMPORARY INSTRUCTION PERMITS AND DRIVERS LICENSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 2711, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2711. Application for license.

(a) Every application for an operator's license shall be made on an application form furnished by the Department. The original application shall be verified by the applicant before a person authorized to administer oaths.

(b) Every application shall state the name, social security number, if eligible, date of birth, sex and residence address of the applicant and whether or not the applicant has previously been licensed as an operator, and, if so, when and by what state and whether or not such license has ever been suspended or revoked and, if so, the date of and reason for such suspension or revocation.

(c) Regardless of the age of the applicant, the Division shall require ~~a birth certificate, or certified copy thereof, or some other~~ documentary evidence satisfactory to the Division of the applicant's name, ~~and~~ date of birth, legal presence in the United States, social security number (if eligible), sex, and Delaware residence address.

(d) Any applicant who is able to provide satisfactory documentary evidence of all information described in subsection (c) of this section except for legal presence in the United States, may be eligible for a Class D license or a Class D temporary instruction permit valid for driving privileges only, hereinafter referred to as a driving privilege card or permit. Federal law prohibits any person from being eligible for a commercial driver license without providing satisfactory documentary evidence of legal presence in the United States.

(1) A driving privilege card or permit applicant must also provide the Division with satisfactory documentary evidence that the applicant, for each of the preceding two years, has:

a. Filed a Delaware income tax return; or

b. Resided in Delaware and been claimed as a dependent by an individual who has filed a Delaware income tax return.

(2) A driving privilege card or permit applicant must have completed the procedures required under § 8595, Title 11.

(3) A driving privilege card or permit shall not be considered a valid form of identification for any purpose.

(4) Every applicant for or holder of a driving privilege card or permit under this section shall be subject to all of the provisions of this and any other title that apply to applicants and holders of Class D driver licenses, Class D temporary instruction permits, and Level 1 Learner Permits.

(5) Notwithstanding any provision to the contrary, to ensure the public trust of the Delaware undocumented population that will utilize the driving privilege card for its intended purposes, all personal identifiable information collected during the application process shall be kept confidential, except in connection with purposes or procedures that would equally apply to applicants under subsection (c) of this section.

~~(d)~~(e)(1) Any male applicant who applies for an instruction permit or driver's license or a renewal of any such permit or license and who is at least 18 years of age but less than 26 years of age shall be registered in compliance with the requirements of § 3 of the "Military Selective Service Act", 50 U.S.C. App. § 453, as amended.

(2) The Department shall forward in an electronic format the necessary personal information of the applicants identified in this subsection to the selective service system. The applicant's signature on the application shall serve as an indication that the applicant either has already registered with the selective service system or that he is authorizing the Department to forward to the selective service system the necessary information for such registration. The Department shall notify the applicant at the time of application that his signature constitutes consent to registration with the selective service system, if he is not already registered.

Section 2. Amend § 2715, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2715. ~~Issuance of license every 8 years~~ Driver license renewal cycle; fees; photograph.

(a) Upon receipt of the application and a fee of \$40 and after such examination as provided in this chapter, the Secretary may issue, at the Secretary's discretion, a motor vehicle driver's license which shall expire and be renewable on the eighth anniversary date of the birth of the applicant next following the date of its issuance unless the birth date is February 29, in which event the license shall expire and be renewable on February 28 every eighth year. A permanent resident foreign national may be issued a full 8-year driver's license. However, a driver's license issued to a temporary foreign national must be limited to the period of time that the temporary foreign national is authorized to be in the United States.

(b) Upon receipt of the application and a fee of \$20 and after such examination as provided in this chapter, the Secretary may issue, at the Secretary's discretion, a driving privilege card issued in accordance with § 2711 of this title, which shall expire and be renewable on the fourth anniversary date of the birth of the applicant next following the date of its issuance unless the birth date is February 29, in which event the driving privilege card shall expire and be renewable on February 28 every fourth year.

~~(b)~~(c) On or near the date of expiration of a motor vehicle driver's license, each licensee shall appear at 1 of the Department's offices and be photographed by the Department of Transportation. Upon approval by the Director of the Division of Motor Vehicles, in the Director's discretion, the requirement for this appearance may be waived if circumstances prevent the licensee from appearing on or near the time of renewal.

~~(e)~~(d) A late fee of \$1.15 shall be assessed in addition to the renewal fee for every person whose driver's license has expired.

~~(d)~~(e) Notwithstanding subsections (a), (b), and (c) of this section, the Secretary may issue driver licenses for less than 8 years until December 12, 2016, so the number of renewals can be more evenly distributed over an 8-year period. If a driver license is issued for less than 8 years pursuant to this section, the fee shall be calculated at \$5.00 per year.

~~(e)~~(f) Notwithstanding the length of issuance and fees as stated in this subsection, the length of issuance and fees for commercial motor vehicle driver's licenses as required in Chapter 26 of this title shall be as required in § 2611 of this title.

Section 3. Amend § 2718, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2718. Information on licenses.

(a) Every license shall bear thereon the distinguishing number assigned to the licensee and shall contain the name, age, residential address and a brief description of the licensee for the purpose of identification and shall have a space for the signature of the licensee. Every license shall also bear thereon a photograph of the licensee. Upon approval by the Director of the Division of Motor Vehicles, in the Director's discretion, the requirement for a photograph may be waived, if circumstances prevent the licensee from appearing on or near the time of renewal. The licensee's social security number is used for identification purposes and shall be maintained in the Division of Motor Vehicle's record system. In addition to the information described in this section, a driving privilege card or permit issued in accordance with § 2711 of this title shall be unique in design and bear on its face the phrase "Driving Privilege Only", and the phrase "Not Valid For Identification".

(b) The Division of Motor Vehicles shall provide a method for permitting a person making application for a license or identification card, or for renewal thereof, to have designated thereon that such person is a donor pursuant to subchapter II, Chapter 27 of Title 16, the Uniform Anatomical Gift Act.

(1) Upon such designation, the Division of Motor Vehicles shall in a manner prescribed by the Division make a suitable notation upon the license or identification card indicating that the person is a donor.

(2) The designation shall constitute sufficient legal authority for the removal of a body or part thereof upon the person's death and the designation shall be removed only upon written notice to the Division by the donor.

(3) At the time the donor authorizes the designation to appear on the donor's license or identification card, the donor shall be notified that the designation can be removed only upon written notice to the Division.

(4) For purposes of this section, license shall not include any temporary license.

(c) The Division of Motor Vehicles shall provide a method for permitting a person applying for a license or

identification card, or for renewal thereof, to have designated thereon that such person has a medical condition which may require special attention.

(1) Upon such designation, the Division of Motor Vehicles shall in a manner prescribed by the Division make a suitable notation upon the license or identification card indicating that such person has a medical condition which may require special attention.

(2) At the time the licensee authorizes the designation to appear on the licensee's license or identification card, the licensee shall be notified that the designation can be removed only upon written notice to the Division.

(3) For purposes of this subsection, license shall not include any temporary license.

(4) No designation shall be noted upon the license or identification card of any person under 18 years of age unless written permission of the parents or guardian is granted.

(5) For the purposes of this subsection "medical condition" shall include the execution of a pre-hospital advanced care directive pursuant to § 9706(h) of Title 16.

(d) A driver's license applicant or holder of a driver's license shall provide the Division with the applicant's or holder's social security number if eligible. This shall take place at the time of renewal of such driver's license or at the time a new license is issued to the applicant for any reason.

(e) If an applicant is required to register as a sex offender pursuant to § 4120 of Title 11, as amended, for a felony conviction the sentencing court shall take possession of the driver's license and shall tender to the person being sentenced a temporary license, directing that the person report to the Division of Motor Vehicle for a replacement driver's license with the following code under restrictions: Y indicating sex offender. The person shall tender to the Division of Motor Vehicle a fee of \$5.00 for the replacement license. Upon a person being removed from the registration requirement, the Division of Motor Vehicle shall issue a license without the sex offender code printed upon the license at no charge. The sentencing court shall forward to the Division all licenses that it receives, along with a copy of the sentencing order.

(f) Failure to comply with subsection (e) of this section within 30 days of a qualifying felony conviction pursuant to § 4120 of Title 11 will result in the suspension of driving privileges by the Division of Motor Vehicles.

Section 4. Amend Chapter 85, Title 11 by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter X. Driving Privilege Cards.

§ 8593. Definitions.

For purposes of this subchapter:

(1) "Applicant" shall mean a prospective driving privilege card holder.

(2) "Driving privilege card" shall mean a card issued pursuant to § 2711(d) of Title 21 of the Delaware Code, to undocumented immigrants who are not eligible for a Delaware driver's license.

§ 8594. Authority of the State Bureau of Identification.

This subchapter is intended for use by an applicant for a driving privilege card who may or may not have sufficient identification or documentation to prove his or her identity, pursuant to the procedures established in § 8595 of this title. The State Bureau of Identification, hereinafter referred to as “Bureau,” shall facilitate the criminal background check of applicants. The Bureau is hereby authorized to promulgate such reasonable forms, fees, and regulations as may be necessary or desirable to effectuate the provisions of this subchapter.

§ 8595. Application process.

(a) The applicant shall appear at the Bureau during regular hours of business, and shall inform the Bureau of the applicant’s desire to avail himself or herself of the procedure set forth in this section.

(1) The applicant shall produce identification documentation. Acceptable documentation shall include the following, with other documentation to be evaluated on a case-by-case basis:

- a. A birth certificate;
- b. A foreign passport;
- c. A foreign driver’s license; or
- d. School Identification that includes a photograph.

(2) The applicant will sign an affidavit attesting to his or her identity. The affidavit will inform the applicant that if any of the information provided is proven to be false the applicant could be prosecuted under § 907 of this title.

(3) The applicant shall be required to submit fingerprints and other necessary information in order for the Bureau to run a search of state and federal criminal databases. This search shall include:

- a. A review of the applicant's criminal history record to determine if the applicant has an alias linked to fingerprints on file at the Bureau.
- b. A report of the applicant’s entire federal criminal history record, pursuant to the Federal Bureau of Investigation appropriation of Title 42 of Public Law 92-544 (28 CFR § 20.33 (a)(3)).

(4) If a the review pursuant to paragraph (a)(3)a. of section identifies a conflict between the name the applicant provided and an alias on file with state or federal authorities, the applicant must resolve the conflict prior to becoming eligible to obtain a driving privilege card.

(5) Fees for the criminal history background check shall be paid by the applicant prior to the commencement of the background check.

(b) The Bureau shall maintain a record of all background checks under this section to the same extent as is required by law.

(c) The Bureau will make the result known to the Division of Motor Vehicles once the applicant has successfully completed the background check. The Bureau will coordinate with the Division of Motor Vehicles to develop a procedure to ensure the applicant who successful completes this subchapter's procedures is the same individual who applies for a driving privilege card.

Section 5. The Division of Motor Vehicle shall promulgate regulations to carry out the provisions of this bill.

Section 6. This bill shall become effective 180 days from the date of enactment.

SYNOPSIS

This Act creates the means for an undocumented immigrant to apply for and obtain valid driving privileges in the State of Delaware. Those who are eligible will be issued a Class D driver license for driving privileges only that is not considered a valid form of identification due to the applicant's inability to prove legal presence in the United States. The driving privilege card will be uniquely designed to distinguish it from other driver licenses. It will also be clearly marked "Not Valid for Identification" and for "Driving Privileges Only". This bill does not change any existing driver license requirements for those who are United State citizens or who have lawful presence in the United States.

Author: Senator Townsend