SENATE, No. 1696

STATE OF NEW JERSEY

216th LEGISLATURE

INTRODUCED MARCH 17, 2014

Sponsored by:
Senator JOSEPH F. VITALE
District 19 (Middlesex)
Senator M. TERESA RUIZ
District 29 (Essex)

Co-Sponsored by:
Senators Cruz-Perez and Lesniak

SYNOPSIS

Establishes driving privilege cards for New Jersey residents who cannot prove lawful presence in United States.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 2/6/2015)

AN ACT permitting persons who are unable to prove citizenship to obtain a drivers license, amending R.S.39:3-10, and supplementing chapter 3 of Title 39 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. R.S.39:3-10 is amended to read as follows:

39:3-10. No person shall drive a motor vehicle on a public highway in this State unless the person is under supervision while participating in a behind-the-wheel driving course pursuant to section 6 of P.L.1977, c.25 (C.39:3-13.2a) or is in possession of a validated permit, driving privilege card, or a probationary or basic driver's license issued to that person in accordance with this article.

No person under 18 years of age shall be issued a basic license to drive motor vehicles, nor shall a person be issued a validated permit, including a validated examination permit, until the applicant has passed a satisfactory examination and other requirements as to the applicant's ability as an operator. The examination shall include a test of the applicant's vision, the applicant's ability to understand traffic control devices, the applicant's knowledge of safe driving practices and of the effects that ingestion of alcohol or drugs has on a person's ability to operate a motor vehicle, the applicant's knowledge of such portions of the mechanism of motor vehicles as is necessary to insure the safe operation of a vehicle of the kind or kinds indicated by the applicant, and of the laws and ordinary usages of the road. No person shall sit for an examination for any permit without exhibiting photo identification deemed acceptable by the commission, unless that person is a high school student participating in a course of automobile driving education approved by the State Department of Education and conducted in a public, parochial, or private school of this State, pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1). The commission may waive the written law knowledge examination for any person 18 years of age or older possessing a valid driver's license issued by any other state, the District of Columbia, or the United States Territories of American Samoa, Guam, Puerto Rico, or the Virgin Islands. The commission shall be required to provide that person with a booklet that highlights those motor vehicle laws unique to New Jersey. A road test shall be required for a probationary license and serve as a demonstration of the applicant's ability to operate a vehicle of the class designated. No person shall sit for a road test unless that person exhibits photo identification deemed acceptable by the commission. A high school student who has completed a course of behind-the-wheel automobile driving education approved by the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

State Department of Education and conducted in a public, parochial, or private school of this State, who has been issued a special learner's permit pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1) prior to January 1, 2003, shall not be required to exhibit photo identification in order to sit for a road test. The commission may waive the road test for any person 18 years of age or older possessing a valid driver's license issued by any other state, the District of Columbia, or the United States Territories of American Samoa, Guam, Puerto Rico, or the Virgin Islands. The road test shall be given on public streets, where practicable and feasible, but may be preceded by an off-street screening process to assess basic skills. The commission shall approve locations for the road test which pose no more than a minimal risk of injury to the applicant, the examiner, and other motorists. No new locations for the road test shall be approved unless the test can be given on public streets.

A person who successfully completes a road test for a motorcycle license or a motorcycle endorsement when operating a motorcycle or motorized scooter with an engine displacement of less than 231 cubic centimeters shall be issued a motorcycle license or endorsement restricting the person's operation of such vehicles to any motorcycle with an engine displacement of 500 cubic centimeters or less. A person who successfully completes a road test for a motorcycle license or motorcycle endorsement when operating a motorcycle with an engine displacement of 231 or more cubic centimeters shall be issued a motorcycle license or endorsement without any restriction as to engine displacement. Any person who successfully completes an approved motorcycle safety education course established pursuant to the provisions of section 1 of P.L.1991, c.452 (C.27:5F-36) shall be issued a motorcycle license or endorsement without restriction as to engine displacement.

The commission shall issue a basic driver's license to operate a motor vehicle other than a motorcycle to a person over 18 years of age who previously has not been licensed to drive a motor vehicle in this State or another jurisdiction only if that person has: (1) operated a passenger automobile in compliance with the requirements of this title for not less than one year, not including any period of suspension or postponement, from the date of issuance of a probationary license pursuant to section 4 of P.L.1950, c.127 (C.39:3-13.4); (2) not been assessed more than two motor vehicle points; (3) not been convicted in the previous year for a violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), P.L.1992, c.189 (C.39:4-50.14), R.S.39:4-129, N.J.S.2C:11-5, subsection c. of N.J.S.2C:12-1, or any other motor vehicle-related violation the commission determines to be significant and applicable pursuant to regulation; and (4) passed an examination of the applicant's ability to operate a motor vehicle pursuant to this section.

The commission shall expand the driver's license examination by 20%. The additional questions to be added shall consist solely of questions developed in conjunction with the State Department of Health ⟦and Senior Services⟧ concerning the use of alcohol or drugs as related to highway safety. The commission shall develop in conjunction with the State Department of Health ⟦and Senior Services⟧ supplements to the driver's manual which shall include information necessary to answer any question on the driver's license examination concerning alcohol or drugs as related to highway safety.

Up to 20 questions may be added to the examination on subjects to be determined by the commission that are of particular relevance to youthful drivers, after consultation with the Director of the Division of Highway Traffic Safety in the Department of Law and Public Safety.

The commission shall expand the driver's license examination to include a question asking whether the applicant is aware of the provisions of the "Revised Uniform Anatomical Gift Act," P.L.2008, c.50 (C.26:6-77 et al.) and the procedure for indicating on the driver's license the intention to make a donation of body organs or tissues pursuant to P.L.1978, c.181 (C.39:3-12.2).

Any person applying for a driver's license to operate a motor vehicle or motorized bicycle in this State shall surrender to the commission any current driver's license issued to the applicant by another state or jurisdiction upon the applicant's receipt of a driver's license for this State. The commission shall refuse to issue a driver's license if the applicant fails to comply with this provision. An applicant for a permit or license who is less than 18 years of age, and who holds a permit or license for a passenger automobile issued by another state or country that is valid or has expired within a time period designated by the commission, shall be subject to the permit and license requirements and penalties applicable to State permit and license applicants who are of the same age; except that if the other state or country has permit or license standards substantially similar to those of this State, the credentials of the other state or country shall be acceptable.

The commission shall create classified licensing of drivers covering the following classifications:

a. Motorcycles, except that for the purposes of this section, motorcycle shall not include any three-wheeled motor vehicle equipped with a single cab with glazing enclosing the occupant, seats similar to those of a passenger vehicle or truck, seat belts and automotive steering or any vehicle defined as a motorcycle pursuant to R.S.39:1-1 having a motor with a maximum piston displacement that is less than 50 cubic centimeters or a motor that is rated at no more than 1.5 brake horsepower with a maximum speed of no more than 35 miles per hour on a flat surface.

b. Omnibuses as classified by R.S.39:3-10.1 and school buses classified under N.J.S.18A:39-1 et seq.

c. (Deleted by amendment, P.L.1999, c.28).

d. All motor vehicles not included in classifications a. and b. A license issued pursuant to this classification d. shall be referred to as the "basic driver's license."

Every applicant for a license under classification b. shall be a holder of a basic driver's license. Any issuance of a license under classification b. shall be by endorsement on the basic driver's license.

A driver's license for motorcycles may be issued separately, but if issued to the holder of a basic driver's license, it shall be by endorsement on the basic driver's license. The holder of a basic driver's license or a separately issued motorcycle license shall be authorized to operate a motorcycle having a motor with a maximum piston displacement that is less than 50 cubic centimeters or a motor that is rated at no more than 1.5 brake horsepower with a maximum speed no more than 35 miles per hour on a flat surface.

The commission, upon payment of the lawful fee and after it or a person authorized by it has examined the applicant and is satisfied of the applicant's ability as an operator, may, in its discretion, issue a license to the applicant to drive a motor vehicle. The license shall authorize him to drive any registered vehicle, of the kind or kinds indicated, and shall expire, except as otherwise provided, on the last day of the 48th calendar month following the calendar month in which such license was issued.

The commission may, at its discretion and for good cause shown, issue licenses which shall expire on a date fixed by it. If the commission issues a license to a person who has demonstrated authorization to be present in the United States for a period of time shorter than the standard period of the license, the commission shall fix the expiration date of the license at a date based on the period in which the person is authorized to be present in the United States under federal immigration laws. The commission may renew such a license only if it is demonstrated that the person's continued presence in the United States is authorized under federal law. The fee for licenses with expiration dates fixed by the commission shall be fixed by the commission in amounts proportionately less or greater than the fee herein established.

The required fee for a license for the 48-month period shall be as follows:

Motorcycle license or endorsement: $18.

Omnibus or school bus endorsement: $18.

Basic driver's license: $18.

The commission shall waive the payment of fees for issuance of omnibus endorsements whenever an applicant establishes to the commission's satisfaction that said applicant will use the omnibus endorsement exclusively for operating omnibuses owned by a

nonprofit organization duly incorporated under Title 15 or 16 of the Revised Statutes or Title 15A of the New Jersey Statutes.

The commission may charge a fee for the issuance of a driving privilege card established in accordance with P.L. , c. (C.) (pending before the Legislature as this bill).

The commission shall issue licenses for the following license period on and after the first day of the calendar month immediately preceding the commencement of such period, such licenses to be effective immediately.

All applications for renewals of licenses shall be made in a manner prescribed by the commission and in accordance with procedures established by it.

The commission in its discretion may refuse to grant a permit or license to drive motor vehicles to a person who is, in its estimation, not a proper person to be granted such a permit or license, but no defect of the applicant shall debar the applicant from receiving a permit or license unless it can be shown by tests approved by the commission that the defect incapacitates the applicant from safely operating a motor vehicle.

In addition to requiring an applicant for a driver's license to submit satisfactory proof of identity and age, the commission also shall require the applicant to provide, as a condition for obtaining a permit and license, satisfactory proof that the applicant's presence in the United States is authorized under federal law.

If the commission has reasonable cause to suspect that any document presented by an applicant as proof of identity, age or legal residency is altered, false or otherwise invalid, the commission shall refuse to grant the permit or license until such time as the document may be verified by the issuing agency to the commission's satisfaction.

A person violating this section shall be subject to a fine not exceeding $500 or imprisonment in the county jail for not more than 60 days, but if that person has never been licensed to drive in this State or any other jurisdiction, the applicant shall be subject to a fine of not less than $200 and, in addition, the court shall issue an order to the commission requiring the commission to refuse to issue a license to operate a motor vehicle to the person for a period of not less than 180 days. The penalties provided for by this paragraph shall not be applicable in cases where failure to have actual possession of the operator's license is due to an administrative or technical error by the commission.

Nothing in this section shall be construed to alter or extend the expiration of any license issued prior to the date this amendatory and supplementary act becomes operative.

(cf: P.L.2011, c.13, s.1)

2. (New section) a. The commission shall issue a driving privilege card to a person who satisfies the requirements for

issuance of a basic driver's license but cannot provide proof of lawful citizenship in the United States.

b. Each applicant for a driving privilege card shall be required to submit to the Motor Vehicle Commission, upon request, proof of identity and date of birth and proof of that the applicant resides in the State of New Jersey. The chief administrator shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), regulations establishing the documentation necessary to prove an applicant's identity, date of birth, and proof of residency. The documents may include, but not be limited to, an original or certified copy of the following forms of identification or combination of forms of identification, as determined by the chief administrator:

(1) a valid, unexpired consular identification document issued by a consulate from the applicant's country of citizenship, or a valid, unexpired passport from the applicant's country of citizenship;

(2) an original birth certificate, or other proof of age, as designated by the chief administrator;

(3) a home utility bill, lease or rental agreement, or other proof of New Jersey residence;

(4) a marriage license or divorce certificate;

(5) a foreign federal electoral photo card issued on or after January 1, 1991;

(6) a foreign driver's license;

(7) a United States Department of Homeland Security Form I-589, Application for Asylum and for Withholding of Removal;

(8) an official school or college transcript that includes the applicant's date of birth, or a foreign school record that is sealed and includes a photograph of the applicant at the age the record was issued;

(9) a United States Department of Homeland Security Form I-20 or Form DS-2019;

(10) a deed or title to real property;

(11) a property tax bill or statement issued within the previous 12 months; or

(12) an income tax return.

c. If a document listed under paragraphs 4 through 10 of subsection b. of this section is in a language other than English, the applicant shall submit a certified translation or affidavit of translation into English to accompany the document.

An applicant shall not be issued a driving privilege card unless that applicant:

(1) surrenders to the commission any driver's license possessed by the applicant that was issued by a state or political subdivision of the United States or affirms in writing that the applicant does not possess a driver's license issued by this or any other state or political subdivision of the United States; and

(2) affirms in writing that the applicant does not have a documented record of criminal history in this State or any other jurisdiction or a record of conduct in another jurisdiction which, if committed in this State, would constitute a crime of the first through fourth degree.

d. A person applying for a driving privilege card is required to pay all fees applicable for the issuance of a basic driver's license. The commission may charge the applicant an additional fee to offset the administrative costs associated with the production and distribution of driving privilege cards. If this administrative fee is assessed, it shall only apply until the first day of the 60th month following the effective date of this act, at which time the additional administrative fee shall expire and a driving privilege card shall have the same fees applicable for the issuance of a basic driver's license.

e. Any person applying for a driving privilege card who provides false documentation or who knowingly makes a false statement on an application for the purpose of obtaining a driving privilege card shall be guilty of falsifying government records pursuant to N.J.S.2C:21-4.

3. (New section) a. A driving privilege card shall be valid for four years from the date of issuance. While the card is valid, the holder shall have the same privileges and shall be bound by the same legal responsibilities with respect to the operation of a motor vehicle as the holder of a basic driver's license issued pursuant to this chapter.

b. No officer, official or employee of the State, or any political subdivision or instrumentality thereof, shall recognize a driving privilege card issued pursuant to this act as a form of identification except for the purpose of verifying that the holder is authorized to operate a motor vehicle in this State while the card is valid.

c. The commission shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), regulations concerning the form and design of the driving privilege card and any other regulations necessary for the effective implementation of this act. The regulations shall require that each driving privilege card include a digitized picture of the person to whom the card was issued and meet the applicable requirements for construction of driver's licenses in section 3 of P.L.1979, c.261 (C.39:3-10h). The regulations also shall require that the driving privilege card appear similar to a driver’s license but contain a conspicuous statement substantially similar to the following: “This card entitles the person pictured to operate a motor vehicle. Not For Federal Identification Purposes. This card does not establish eligibility for employment, voter registration, or public benefits.”

4. (New section) a. Any personal information collected by the commission from an applicant for a driving privilege card is subject to the same disclosure restrictions that apply to personal information collected from applicants for driver's licenses.

b. Any public official who discriminates against an individual who holds or presents a driving privilege card issued under this section shall be guilty of the crime of official deprivation of civil rights under section 2 of P.L.2003, c.31 (C.2C:30-6).

c. A driving privilege card issued pursuant to this act shall not be used to consider an individual's citizenship or immigration status as a basis for a criminal investigation, arrest, or detention.

d. On the first day of the 48th month following the effective date of this act, the Chief Administrator of the Motor Vehicle Commission shall submit to the Governor and the Legislature a report evaluating the effectiveness of the issuance of driving privilege cards. The report shall provide data on the number of convictions for violations of subsection b. of this section and subsection e. of section 2 of P.L. , c. (C.) (pending before the Legislature as this bill). Information pertaining to the identity of any specific individual shall not be provided in the report.

5. (New section) The Chief Administrator of the Motor Vehicle Commission shall establish and conduct a public education campaign to inform the public about the availability of driving privilege cards and the requirements for obtaining such a card.

6. This act shall take effect on the first day of the seventh month following enactment, but the Chief Administrator of the Motor Vehicle Commission may take such administrative action in advance of the effective date as may be necessary.

STATEMENT

This bill requires the Motor Vehicle Commission to issue driving privilege cards to applicants who are New Jersey residents, but are unable to prove lawful citizenship in the United States. The bill stipulates that a holder of a valid driving privilege card would have the same privileges and legal responsibilities with respect to the operation of a motor vehicle as a holder of a basic driver's license.

The bill requires an applicant for a driving privilege card to submit to the Motor Vehicle Commission (MVC), upon request, proof of identity and date or birth as well as proof that the applicant resides in the State of New Jersey. The Chief Administrator of the MVC is required to adopt regulations establishing the documentation necessary to prove an applicant's identity, date of birth, and proof of residency. The documents may include, but not be limited to, an original or certified copy of the following forms of

identification or combination of forms of identification, as determined by the chief administrator:

- a valid, unexpired consular identification document issued by a consulate from the applicant's country of citizenship, or a valid, unexpired passport from the applicant's country of citizenship;
- an original birth certificate, or other proof of age, as designated by the chief administrator;
- a home utility bill, lease or rental agreement, or other proof of New Jersey residence;
- a marriage license or divorce certificate;
- a foreign federal electoral photo card issued on or after January 1, 1991;
- a foreign driver's license;
- a United States Department of Homeland Security Form I-589, Application for Asylum and for Withholding of Removal;
- an official school or college transcript that includes the applicant's date of birth, or a foreign school record that is sealed and includes a photograph of the applicant at the age the record was issued;
- a United States Department of Homeland Security Form I-20 or Form DS-2019;
- a deed or title to real property;
- a property tax bill or statement issued within the previous 12 months; or
- an income tax return.

In order to obtain a driving privilege card, an applicant is required to surrender to the MVC any driver's license possessed by the applicant that was issued by a state or political subdivision of the United States. An applicant also may affirm in writing that he or she does not possess a driver's license issued by another jurisdiction. The bill also requires that an applicant affirm in writing that he or she does not have a criminal history record in this State or any other jurisdiction. Any applicant who provides false documentation or knowingly makes a false statement on an application when applying for a driving privilege card would be guilty of the crime of falsifying government records. A person convicted of this offense may be subject to a fine of up to $10,000, and a term of imprisonment of up to 18 months, or both.

The bill requires the MVC to design the driving privilege cards, which would display a digitized picture and a statement that the card is not for federal identification purposes.

A driving privilege card is valid for four years. Applicants are required to pay all fees applicable to the issuance of a driver's license, plus an additional fee to offset the administrative costs associated with the production and distribution of the cards. The

additional administrative fee expires five years following the bill's effective date.

No public employee is permitted to accept a driving privilege card as identification except for the purpose of verifying that the holder is authorized to operate a motor vehicle. Under the bill, information collected from applicants applying for a driving privilege card is subject to the same restrictions that currently apply to information collected from applicants for basic driver's licenses.

The bill provides that any public official who discriminates against an individual because he or she holds or presents a driving privilege card is guilty of the crime of official deprivation of civil rights. In general, this crime is punishable by three to five years imprisonment, a fine of up to $15,000, or both. A driving privilege card is not to be used to consider an individual's citizenship or immigration status as a basis for a criminal investigation, arrest, or detention.

Four years following the bill's effective date, the chief administrator is required to submit to the Governor and the Legislature a report evaluating the effectiveness of the issuance of driving privilege cards. The bill also requires that chief administrator establish and conduct a public education campaign to inform the public about the availability of driving privilege cards and the requirements for obtaining such a card.

Under current law, a person who cannot prove their lawful presence in the United States cannot obtain a driver's license. This bill would offer such persons an opportunity to drive legally, while not compromising the security of the State's official driver's license.