

By the Committee on Commerce, Economic Opportunities, and Consumer Services; and Senators Garcia and Wilson

310-2431-04

1 A bill to be entitled
2 An act relating to drivers' licenses; creating
3 s. 322.071, F.S.; authorizing the Department of
4 Highway Safety and Motor Vehicles to issue
5 driving permits to certain foreign nationals
6 who cannot satisfy a specific requirement of
7 the driver's license statute; prescribing that
8 the department may issue driving permits to
9 foreign nationals from countries meeting
10 certain criteria; prescribing the information
11 that an applicant for a driving permit must
12 present to the department; providing that the
13 department must receive certain official
14 records and information from the applicant's
15 country of citizenship prior to issuing a
16 driving permit; requiring the department to
17 conduct criminal background and security
18 checks; providing limitations on the driving
19 permit; prohibiting the department from issuing
20 a driving permit to a person convicted of a
21 felony; providing for renewal of driving
22 permits; authorizing law enforcement officers
23 to seize driving permits under certain
24 circumstances; providing for the application to
25 driving permits of certain provisions and
26 criminal penalties governing drivers' licenses;
27 authorizing the department to establish fees
28 for issuance and renewal of a driving permit;
29 creating s. 322.072, F.S.; authorizing the
30 department to issue driving permits to certain
31 foreign nationals who enter the United States

1 under the Cuban Adjustment Act; prescribing
2 conditions an applicant for a driving permit
3 must meet and information an applicant must
4 present to the department; requiring the
5 department to conduct criminal background and
6 security checks; providing limitations on the
7 driving permit; prohibiting the department from
8 issuing a driving permit to a person convicted
9 of certain crimes; providing for renewal of
10 driving permits; authorizing law enforcement
11 officers to seize driving permits under certain
12 circumstances; providing for the application to
13 driving permits of certain provisions and
14 criminal penalties governing drivers' licenses;
15 authorizing the department to establish fees
16 for issuance and renewal of a driving permit;
17 creating s. 322.073, F.S.; authorizing the
18 department to issue a driver's license to a
19 foreign national who is not an immigrant;
20 providing for the expiration of this driver's
21 license; providing application requirements;
22 authorizing the department to adopt rules;
23 providing an effective date.

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25 WHEREAS, the operation of motor vehicles is critical to
26 facilitating commerce and economic activity in this state, and

27 WHEREAS, the operation of motor vehicles contributes to
28 the ability of individuals to seek medical care, employment,
29 and education and provide for themselves and their families,
30 and

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1 WHEREAS, the licensing and permitting of drivers
2 promotes the safe operation of motor vehicles for the benefit
3 of all Floridians, and

4 WHEREAS, there are many individuals from foreign
5 countries living in this state who are not able to obtain a
6 driver's license or permit, and

7 WHEREAS, the issuance of a driver's license or permit
8 should be a process that emphasizes confirmation of the
9 identity of the applicant for the license or permit, and

10 WHEREAS, establishing a secure process under which
11 foreign nationals and frequent foreign visitors to this state
12 may obtain lawful driving privileges promotes commerce, safety
13 on the roadways, and personal and economic security for the
14 people of this state, NOW, THEREFORE,

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16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Section 322.071, Florida Statutes, is
19 created to read:

20 322.071 Driving permits for foreign nationals.--

21 (1) The department may, subject to the requirements of
22 this section, issue a driving permit to a foreign national who
23 is an applicant for a driver's license under s. 322.08 and who
24 meets the applicable requirements of this chapter but who is
25 unable to satisfy the forms for proof of identity prescribed
26 in s. 322.08(2)(c).

27 (2) To be eligible for a driving permit under this
28 section, the applicant must be a citizen of a country that
29 maintains diplomatic relations with the United States, is not
30 a threat to the United States, as determined by the United

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1 States government, and is not on a list of terrorist countries
2 maintained by the United States government.

3 (3) An applicant for a driving permit under this
4 section must:

5 (a)1. Present to the department a current
6 identification card issued to the applicant by the embassy or
7 consulate in the United States of his or her country of
8 citizenship. The identification card must contain a digital
9 image of the applicant and have been produced using security
10 measures and features to prevent tampering or counterfeiting
11 which satisfy standards prescribed by the department.

12 2. The department may provide for the acceptance of an
13 alternative form of identification to the identification card
14 under subparagraph 1., including a passport, national identity
15 card, or other similar official proof of identification issued
16 by the government of the applicant's county of citizenship.

17 (b) Present a second form of identification, in
18 addition to the identification required under paragraph (a),
19 which is subject to approval by the department and which may
20 include, but not be limited to, an employer identification
21 card issued by the United States government or an individual
22 taxpayer identification number issued by the United States
23 government.

24 (c) Submit to fingerprint capture, which the
25 department must maintain on file and use in reviewing an
26 application to renew a driving permit under subsection (6).
27 The department must use the fingerprints to conduct a criminal
28 background and security check through the Department of Law
29 Enforcement and the Federal Bureau of Investigation.

30 (d) Submit proof, to the satisfaction of the
31 department, of an established presence in this state for at

1 least 6 months during the 5 years preceding the date of
2 application for a driving permit. The proof under this
3 paragraph may include:

4 1. Documentation demonstrating ownership of, or a
5 lease on, real property in this state;

6 2. Utility bills;

7 3. Bank or similar financial records;

8 4. Salary warrants; or

9 5. Sworn affidavits from at least two United States
10 citizens who have known the applicant during the applicant's
11 presence in this state.

12 (e) Affirm to the department that he or she has not
13 been convicted of any crime that would constitute a felony in
14 this state and is not wanted for a crime that would constitute
15 a felony in this state by any criminal authorities in the
16 country of citizenship or in the United States.

17 (f)1. Submit proof of ownership of a motor vehicle,
18 including a leasehold interest in a motor vehicle; or

19 2. Document to the satisfaction of the department the
20 necessity to operate a motor vehicle for employment, business,
21 occupational, educational, medical, or religious reasons; for
22 support of the applicant or the applicant's family; or for
23 other similar reasons prescribed by the department.

24 (4) Before issuing a driving permit under this
25 section, the department must:

26 (a) Receive from the embassy or consulate in the
27 United States of the applicant's country of citizenship the
28 following information about the applicant available from
29 official records maintained by the government of that country:

30 1. Documentation that the applicant has not been
31 convicted of a crime in the country which would constitute a

1 felony in this state and is not wanted for any crime that
2 would constitute a felony in this state by the country's
3 national criminal authorities or by the criminal authority of
4 any state, province, or similar jurisdiction in the country.

5 2. A certified copy of the applicant's official
6 driving record, if available, from his or her country of
7 citizenship.

8 3. Certification by the embassy or consulate that the
9 form of identification submitted by the applicant under
10 subsection (3) is legitimate. If the form of identification
11 submitted by the applicant is an identification card issued by
12 the embassy or consulate, the department must receive from the
13 embassy or consulate a certification of the legitimacy of any
14 underlying documents that the embassy or consulate relied upon
15 in issuing the identification card to the applicant.

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17 An applicant for a driving permit under this section must
18 arrange for the embassy or consulate to submit the information
19 directly to the department on behalf of the applicant.

20 (b) Receive a certification from the embassy or
21 consulate in the United States of applicant's county of
22 citizenship that the country maintains a security system to
23 prevent the issuance of multiple identities to one individual.
24 The department may use a single certification as a basis for
25 processing multiple applications for driving permits to
26 individuals from the same country. A certification, however,
27 expires 2 years after the date an embassy or consulate submits
28 it to the department. When the certification expires, the
29 department may not issue or renew a driving permit for a
30 foreign national from that country of citizenship until the
31 department receives a new certification.

1 (c) Verify as necessary through the United States
2 Citizenship and Immigration Services within the United States
3 Department of Homeland Security that the applicant is not
4 subject to an order of deportation issued by the United States
5 government.

6 (d) Conduct a criminal background check through the
7 Department of Law Enforcement and the Federal Bureau of
8 Investigation.

9 (e) Verify through the Department of Law Enforcement
10 and the Federal Bureau of Investigation that the applicant is
11 not a security risk to the state or the United States.

12 (5) A driving permit issued by the department under
13 this section:

14 (a) Must have a background that distinguishes the
15 permit from a driver's license issued under s. 322.08.

16 (b) Must be issued under the requirements of s.
17 322.142.

18 (c) Is valid for a period not to exceed 2 years
19 following the date the department issues the permit.

20 (d) Is valid for use in this state only and must
21 include a statement prominently placed that the driving permit
22 is valid for use in this state only.

23 (6) A foreign national who is issued a driving permit
24 under this section may apply to the department to renew the
25 driving permit if the foreign national otherwise qualifies for
26 renewal under this chapter. The department may renew a driving
27 permit for a period not to exceed 2 years if:

28 (a) The applicant for renewal of a driving permit
29 submits proof of identification that satisfies subsection (3).

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1 (b) The department conducts a criminal background and
2 security check of the individual using the fingerprints
3 submitted under subsection (3).

4 (c) The department verifies through the United States
5 Citizenship and Immigration Services within the United States
6 Department of Homeland Security that the applicant is not
7 subject to an order of deportation issued by the United States
8 government.

9 (d) The department verifies with the Department of Law
10 Enforcement and the Federal Bureau of Investigation that the
11 applicant is not a security risk to the state or the United
12 States.

13 (7) The department may not issue a driving permit or
14 renew a driving permit under this section if the applicant has
15 been convicted of a crime in the United States or in any other
16 country which would be classified as a felony in this state.

17 (8) Foreign national applicants meeting the
18 requirements of this section must show proof satisfactory to
19 the department. The provisions of s. 322.212 apply to a
20 driving permit issued under this section, and the penalties
21 prescribed in s. 322.212 apply to a violation of that section
22 which occurs with respect to such a driving permit.

23 (9) A driving permit issued under this section is
24 property of the state. A person in possession of a driving
25 permit must provide it to a law enforcement officer upon
26 request. A law enforcement officer having a reasonable belief
27 that a person possesses, or is using, a permit in violation of
28 this section or any other law may seize the driving permit. A
29 person from whom a law enforcement officer seizes a driving
30 permit under this subsection does not have a cause of action
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1 against the law enforcement officer for the seizure of the
2 driving permit.

3 (10) The department may cancel any driving permit
4 issued under this section upon determining that the foreign
5 national is no longer entitled to the issuance of the driving
6 permit.

7 (11)(a) The department shall establish fees for the
8 initial issuance and the renewal of a driving permit under
9 this section. The fees must account for costs related to
10 conducting criminal background checks, verifying immigration
11 status, and verifying security risks related to the applicant
12 as required under this section.

13 (b) All fees collected under this section shall be
14 deposited in the Highway Safety Operating Trust Fund.

15 (12) The department may adopt rules under s.
16 120.536(1) and s. 120.54 necessary to administer this section.

17 Section 2. Section 322.072, Florida Statutes, is
18 created to read:

19 322.072 Driving permits for persons entering the
20 United States under the Cuban Adjustment Act.--

21 (1) Notwithstanding any provisions in this chapter to
22 the contrary, the department may, subject to the requirements
23 of this section, issue a driving permit to a foreign national
24 who entered the United States under the Cuban Adjustment Act,
25 as amended, 8 U.S.C. s. 1255, and who may not be deported to
26 his or her country of citizenship because of the absence of
27 diplomatic relations between that country and the United
28 States.

29 (2) To be eligible under this section, the applicant
30 must:

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1 (a) Be an applicant for a driver's license under s.
2 322.08 who meets the applicable requirements of this chapter
3 but who is unable to satisfy the forms for proof of identity
4 prescribed in s. 322.08(2)(c).

5 (b) Present a form of identification that is
6 acceptable to the department, as prescribed by the department.

7 (c) Submit to fingerprint capture, which the
8 department must maintain on file and use in reviewing an
9 application to renew a driving permit under subsection (5).
10 The department must use the fingerprints to conduct a criminal
11 background and security check through the Department of Law
12 Enforcement and the Federal Bureau of Investigation.

13 (d)1. Affirm to the department that he or she has not
14 been convicted of a violent felony, terrorism, or money
15 laundering, or conspiracy to commit any of these crimes, by
16 any state or federal court; is not a habitual offender of laws
17 relating to illegal drugs; and has not been designated as a
18 terrorist or the leader of an illegal drug enterprise by the
19 United States Department of Justice; and

20 2. Affirm to the department that he or she is not
21 wanted for any offenses or acts prescribed in subparagraph 1.
22 by any law enforcement authorities in the United States.

23 (e)1. Submit proof of ownership of a motor vehicle,
24 including a leasehold interest in a motor vehicle; or

25 2. Document to the satisfaction of the department the
26 necessity to operate a motor vehicle for employment, business,
27 occupational, educational, medical, or religious reasons; for
28 support of the applicant or the applicant's family; or for
29 other similar reasons prescribed by the department.

30 (3) Before issuing a driving permit under this
31 section, the department must:

1 (a) Conduct a criminal background check through the
2 Department of Law Enforcement and the Federal Bureau of
3 Investigation.

4 (b) Verify through the Department of Law Enforcement
5 and the Federal Bureau of Investigation that the applicant is
6 not a security risk to the state or the United States.

7 (c) Verify that the applicant has not been designated
8 as a terrorist or as the leader of an illegal drug enterprise
9 by the United States Department of Justice.

10 (d) Verify the identity of the individual using the
11 fingerprints submitted under subsection (2).

12 (4) A driving permit issued by the department under
13 this section:

14 (a) Must have a background that distinguishes the
15 permit from a driver's license issued under s. 322.08.

16 (b) Must be issued under the requirements of s.
17 322.142.

18 (c) Is valid for a period not to exceed 2 years
19 following the date the department issues the permit.

20 (d) Is valid for use in this state only and must
21 include a statement prominently placed that the driving permit
22 is valid for use in this state only.

23 (5) A foreign national who is issued a driving permit
24 under this section may apply to the department to renew the
25 driving permit if the foreign national otherwise qualifies for
26 renewal under this chapter. The department may renew a driving
27 permit for a period not to exceed 2 years if:

28 (a) The applicant for renewal of a driving permit
29 submits proof of identification that satisfies subsection (2).

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1 (b) The department conducts a criminal background and
2 security check of the individual using the fingerprints
3 submitted under subsection (2).

4 (c) The department verifies with the Department of Law
5 Enforcement and the Federal Bureau of Investigation that the
6 applicant is not a security risk to the state or the United
7 States.

8 (d) The department verifies that the applicant has not
9 been designated as a terrorist or as the leader of an illegal
10 drug enterprise by the United States Department of Justice.

11 (6) The department may not issue a driving permit or
12 renew a driving permit under this section if the applicant has
13 been convicted of a violent felony, terrorism, or money
14 laundering, or conspiracy to commit any of these crimes, by
15 any state or federal court; is a habitual offender of laws
16 relating to illegal drugs; or has been designated as a
17 terrorist or the leader of an illegal drug enterprise by the
18 United States Department of Justice.

19 (7) Foreign national applicants meeting the
20 requirements of this section must show proof satisfactory to
21 the department. The provisions of s. 322.212 apply to a
22 driving permit issued under this section, and the penalties
23 prescribed in s. 322.212 apply to a violation of that section
24 which occurs with respect to such a driving permit.

25 (8) A driving permit issued under this section is
26 property of the state. A person in possession of a driving
27 permit must provide it to a law enforcement officer upon
28 request. A law enforcement officer having a reasonable belief
29 that a person possesses, or is using, a permit in violation of
30 this section or any other law may seize the driving permit. A
31 person from whom a law enforcement officer seizes a driving

1 permit under this subsection does not have a cause of action
2 against the law enforcement officer for the seizure of the
3 driving permit.

4 (9) The department may cancel any driving permit
5 issued under this section upon determining that the foreign
6 national is no longer entitled to the issuance of the driving
7 permit.

8 (10)(a) The department shall establish fees for the
9 initial issuance and the renewal of a driving permit under
10 this section. The fees must account for costs related to
11 conducting criminal background checks and verifying security
12 risks related to the applicant as required under this section.

13 (b) All fees collected under this section shall be
14 deposited in the Highway Safety Operating Trust Fund.

15 (11) The department may adopt rules under s.
16 120.536(1) and s. 120.54 necessary to administer this section.

17 Section 3. Section 322.073, Florida Statutes, is
18 created to read:

19 322.073 Licensing of foreign nationals who visit this
20 state.--

21 (1) The department may, subject to the requirements of
22 this section, issue a driver's license to an applicant who is
23 a foreign national and who visits this state frequently but
24 who has not immigrated to the United States.

25 (2) A license issued under this section is valid for 2
26 years following the date it is issued and may be renewed
27 thereafter if the applicant, at the time of renewal, satisfies
28 the requirements of this section.

29 (3) In order to receive or renew a driver's license
30 under this section, the applicant must meet the applicable
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1 requirements of this chapter. The applicant also must submit
2 to the department:

3 (a) Proof of ownership or rental of a residence in
4 this state during the time the applicant is in this state, or
5 proof of ownership of an established business in this state
6 for a period of at least 5 years; and

7 (b) Proof of ownership or lease of, and registration
8 of, a motor vehicle in this state.

9 (4) The department may adopt rules under s. 120.536(1)
10 and s. 120.54 necessary to administer this section, including,
11 but not limited to, rules governing the documentation that
12 will satisfy the proof required under subsection (3).

13 Section 4. This act shall take effect October 1, 2004.

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15 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
16 COMMITTEE SUBSTITUTE FOR
17 Senate Bill 1360

18 The committee substitute authorizes the Department of Highway
19 Safety and Motor Vehicles to issue a two-year driving permit
20 to a foreign national in this state who applies for a driver's
21 license but cannot produce one of the forms of proof of
22 identification required under the state driver's license
23 application law. The committee substitute authorizes the
24 applicant to submit instead an identification card from the
25 embassy or consulate of his or her country of citizenship,
26 provided the country is one with which the United States
27 maintains diplomatic relations and is not on a list of
28 terrorist countries. The committee substitute also creates
29 comparable authority for the department to issue a two-year
30 driving permit to a person who enters the United States under
31 the Cuban Adjustment Act and provides proof of identity to the
satisfaction of the department. For both applicants, the
committee substitute prescribes information requirements and
conditions, based on criminal activity, under which issuance
of the permit shall be denied.

The committee substitute also establishes a process under
which a foreign national who visits the state frequently, but
who is not an immigrant, may obtain a driver's license, valid
for two years, if he or she can prove ownership or lease of
real property or ownership of an established business, as well
as prove ownership or lease and registration of a motor
vehicle in this state.