

By Senator Polsky

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1 A bill to be entitled
2 An act relating to driver licenses and identification
3 cards; amending s. 322.08, F.S.; requiring proof of a
4 specified identification number for certain applicants
5 for a driver license; deleting a provision authorizing
6 the Department of Highway Safety and Motor Vehicles to
7 require applicants to produce certain documents from
8 the United States Department of Homeland Security for
9 certain purposes; authorizing additional specified
10 documents issued by foreign governments to satisfy
11 proof-of-identity requirements; providing that a
12 driver license or temporary permit issued based on
13 specified documents is valid for a specified period;
14 deleting a provision authorizing applications to
15 include fingerprints and other unique biometric means
16 of identity; amending s. 322.12, F.S.; prohibiting the
17 department from waiving certain tests for applicants
18 who provide proof of identity using specified foreign
19 documents; amending s. 322.142, F.S.; providing a
20 short title; defining the term "agency that primarily
21 enforces immigration law"; prohibiting the department
22 from disclosing or making accessible certain
23 photographs and related information to any agency that
24 primarily enforces immigration law or to any employee
25 or agent of such agency; providing exceptions;
26 requiring that the department notify a person about
27 whom certain information was requested, subject to
28 certain requirements; requiring that the department
29 require a person or an entity to certify specified

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30 information before any such person or entity receives
31 or has access to certain information; requiring such
32 person or entity to keep certain records for a
33 specified period; requiring that such records be
34 maintained in a manner and form prescribed by
35 department rule and be available for inspection by the
36 department; amending ss. 322.17, 322.18, and 322.19,
37 F.S.; prohibiting a licensee from obtaining a
38 duplicate or replacement instruction permit or driver
39 license, renewing a driver license, or changing his or
40 her name or address, respectively, except in person
41 and upon submission of specified identification
42 documents under certain circumstances; conforming
43 provisions to changes made by the act; creating s.
44 760.45, F.S.; prohibiting a person or an entity from
45 discriminating against an individual because the
46 individual holds or presents a driver license that
47 does not comply with the REAL ID Act of 2005;
48 prohibiting an employer from requiring an employee to
49 present a driver license; providing exceptions;
50 providing construction; prohibiting the state or a
51 local government, an agent acting on behalf of the
52 state or a local government, or a program or an
53 activity that receives financial assistance from the
54 state from discriminating against an individual
55 because the individual holds or presents a driver
56 license that does not comply with the REAL ID Act of
57 2005; providing an effective date.

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

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61 Section 1. Subsection (2) of section 322.08, Florida
62 Statutes, is amended to read:

63 322.08 Application for license; requirements for license
64 and identification card forms.—

65 (2) Each such application shall include the following
66 information regarding the applicant:

67 (a) Full name (first, middle or maiden, and last), gender,
68 proof of social security card number satisfactory to the
69 department, which may include a military identification card,
70 county of residence, mailing address, proof of residential
71 address satisfactory to the department, country of birth, and a
72 brief description. An applicant who cannot provide a social
73 security card must provide proof of a number associated with a
74 document establishing identity, as specified in paragraph (c).

75 (b) Proof of birth date satisfactory to the department.

76 (c) Proof of identity satisfactory to the department. Such
77 proof must include one of the following documents issued to the
78 applicant:

79 1. A driver license record or identification card record
80 from another jurisdiction that required the applicant to submit
81 a document for identification which is substantially similar to
82 a document required under subparagraph 2., subparagraph 3.,
83 subparagraph 4., subparagraph 5., subparagraph 6., subparagraph
84 7., or subparagraph 8.†

85 2. A certified copy of a United States birth certificate.†

86 3. A valid, unexpired United States passport.†

87 4. A naturalization certificate issued by the United States

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88 Department of Homeland Security.~~†~~

89 5. A valid, unexpired alien registration receipt card
90 (green card).~~†~~

91 6. A Consular Report of Birth Abroad provided by the United
92 States Department of State.~~†~~

93 7. An unexpired employment authorization card issued by the
94 United States Department of Homeland Security.~~†~~ ~~or~~

95 8. Proof of any of the following documents ~~nonimmigrant~~
96 ~~classification~~ provided by the United States Department of
97 Homeland Security, for an original driver license. ~~In order to~~
98 ~~prove nonimmigrant classification, an applicant must provide at~~
99 ~~least one of the following documents. In addition, the~~
100 ~~department may require applicants to produce United States~~
101 ~~Department of Homeland Security documents for the sole purpose~~
102 ~~of establishing the maintenance of, or efforts to maintain,~~
103 ~~continuous lawful presence:~~

104 a. A notice of hearing from an immigration court scheduling
105 a hearing on any proceeding.

106 b. A notice from the Board of Immigration Appeals
107 acknowledging pendency of an appeal.

108 c. A notice of the approval of an application for
109 adjustment of status issued by the United States Citizenship and
110 Immigration Services.

111 d. An official documentation confirming the filing of a
112 petition for asylum or refugee status or any other relief issued
113 by the United States Citizenship and Immigration Services.

114 e. A notice of action transferring any pending matter from
115 another jurisdiction to this state issued by the United States
116 Citizenship and Immigration Services.

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117 f. An order of an immigration judge or immigration officer
118 granting relief which ~~that~~ authorizes the alien to live and work
119 in the United States, including, but not limited to, asylum.

120 g. Evidence that an application is pending for adjustment
121 of status to that of an alien lawfully admitted for permanent
122 residence in the United States or conditional permanent resident
123 status in the United States, if a visa number is available
124 having a current priority date for processing by the United
125 States Citizenship and Immigration Services.

126 h. On or after January 1, 2010, an unexpired foreign
127 passport with an unexpired United States Visa affixed,
128 accompanied by an approved I-94, documenting the most recent
129 admittance into the United States.

130 9. A passport issued by a foreign government.

131 10. A birth certificate issued by a foreign government.

132 11. A consular identification document.

133 12. A national identification card issued by a foreign
134 government.

135 13. A driver license issued by a foreign government. If the
136 foreign driver license is in a language other than English, it
137 must be accompanied by a certified translation or an affidavit
138 of translation into English.

139 14. A school document, including any document issued by a
140 public or private primary or secondary school or a postsecondary
141 institution, college, or university, which either includes the
142 applicant's date of birth or, if a foreign school document, is
143 sealed by the school and includes a photograph of the applicant
144 at the age the record was issued.

145 15. A court document issued by or filed with a government

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146 within the United States in which the applicant is named as a
147 party to the court proceeding.

148 16. An income tax return.

149 17. A marriage license on which the applicant is named as a
150 party. If the language on the marriage license is a language
151 other than English, the marriage license must be accompanied by
152 a certified translation or an affidavit of translation into
153 English.

154 18. A judgment for the dissolution of a marriage on which
155 the applicant is named as a party. If the language on the
156 judgment is a language other than English, the judgment must be
157 accompanied by a certified translation or an affidavit of
158 translation into English.

159
160 A driver license or temporary permit issued based on documents
161 required in subparagraph 7., ~~or~~ subparagraph 8., subparagraph
162 9., subparagraph 10., subparagraph 11., subparagraph 12., or
163 subparagraph 13. is valid for a period not to exceed the
164 expiration date of the document presented or 8 years, whichever
165 date first occurs ~~1 year~~. A driver license or temporary permit
166 issued based on documents required in subparagraph 14.,
167 subparagraph 15., subparagraph 16., subparagraph 17., or
168 subparagraph 18. is valid for 8 years.

169 (d) Whether the applicant has previously been licensed to
170 drive, and, if so, when and by what state, and whether any such
171 license or driving privilege has ever been disqualified,
172 revoked, or suspended, or whether an application has ever been
173 refused, and, if so, the date of and reason for such
174 disqualification, suspension, revocation, or refusal.

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175 ~~(c) Each such application may include fingerprints and~~
176 ~~other unique biometric means of identity.~~

177 Section 2. Subsection (1) of section 322.12, Florida
178 Statutes, is amended to read:

179 322.12 Examination of applicants.—

180 (1) It is the intent of the Legislature that every
181 applicant for an original driver license in this state be
182 required to pass an examination pursuant to this section.
183 However, the department may waive the knowledge, endorsement,
184 and skills tests for an applicant who is otherwise qualified,
185 except for an applicant who provides proof of identity under s.
186 322.08(2)(c)9., 10., 11., 12., 13., 14., 15., 16., 17., or 18.,
187 and who surrenders a valid driver license from another state or
188 a province of Canada, or a valid driver license issued by the
189 United States Armed Forces, if the driver applies for a Florida
190 license of an equal or lesser classification. An applicant who
191 fails to pass the initial knowledge test incurs a \$10 fee for
192 each subsequent test, to be deposited into the Highway Safety
193 Operating Trust Fund, except that if a subsequent test is
194 administered by the tax collector, the tax collector shall
195 retain such \$10 fee, less the general revenue service charge set
196 forth in s. 215.20(1). An applicant who fails to pass the
197 initial skills test incurs a \$20 fee for each subsequent test,
198 to be deposited into the Highway Safety Operating Trust Fund,
199 except that if a subsequent test is administered by the tax
200 collector, the tax collector shall retain such \$20 fee, less the
201 general revenue service charge set forth in s. 215.20(1). A
202 person who seeks to retain a hazardous-materials endorsement,
203 pursuant to s. 322.57(1)(e), must pass the hazardous-materials

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204 test, upon surrendering his or her commercial driver license, if
205 the person has not taken and passed the hazardous-materials test
206 within 2 years before applying for a commercial driver license
207 in this state.

208 Section 3. Section 322.142, Florida Statutes, is amended to
209 read:

210 322.142 Color photographic or digital imaged licenses;
211 protection of personal information.—

212 (1) The department shall, upon receipt of the required fee,
213 issue to each qualified applicant for a driver license a color
214 photographic or digital imaged driver license bearing a fullface
215 photograph or digital image of the licensee. Notwithstanding
216 chapter 761 or s. 761.05, the requirement for a fullface
217 photograph or digital image of the licensee may not be waived. A
218 space shall be provided upon which the licensee shall affix his
219 or her usual signature, as required in s. 322.14, in the
220 presence of an authorized agent of the department so as to
221 ensure that such signature becomes a part of the license.

222 (2) The department shall, upon receipt of the required fee,
223 issue to each qualified licensee applying for a renewal license
224 in accordance with s. 322.18 a color photographic or digital
225 imaged license as provided for in subsection (1).

226 (3) The department may conduct negotiations and enter into
227 contracts with qualified firms possessing the requisite
228 qualifications for the development and production of
229 photographic or digital imaged identification documents to
230 assure efficient and economical processing of such licenses in
231 sufficient quantity and of acceptable quality to meet the
232 requirements and intent of this section, and to ensure adequate

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233 service at a sufficient number of locations, at the lowest
234 competitive sealed bid price.

235 (4) The department may maintain a film negative or print
236 file. The department shall maintain a record of the digital
237 images and signatures ~~image and signature~~ of the licensees,
238 together with other data required by the department for
239 identification and retrieval. Reproductions from the file or
240 digital record are exempt from ~~the provisions of~~ s. 119.07(1)
241 and may be made and issued only for any of the following
242 purposes:

243 (a) For departmental administrative purposes.†

244 (b) For the issuance of duplicate licenses.†

245 (c) In response to law enforcement agency requests, except
246 as provided in subsection (5).†

247 (d) To the Department of Business and Professional
248 Regulation and the Department of Health pursuant to an
249 interagency agreement for the purpose of accessing digital
250 images for reproduction of licenses issued by the Department of
251 Business and Professional Regulation or the Department of
252 Health.†

253 (e) To the Department of State pursuant to an interagency
254 agreement to facilitate determinations of eligibility of voter
255 registration applicants and registered voters in accordance with
256 ss. 98.045 and 98.075.†

257 (f) To the Department of Revenue pursuant to an interagency
258 agreement for use in establishing paternity and establishing,
259 modifying, or enforcing support obligations in Title IV-D
260 cases.†

261 (g) To the Department of Children and Families pursuant to

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262 an interagency agreement to conduct protective investigations
263 under part III of chapter 39 and chapter 415.†

264 (h) To the Department of Children and Families pursuant to
265 an interagency agreement specifying the number of employees in
266 each of that department's regions to be granted access to the
267 records for use as verification of identity to expedite the
268 determination of eligibility for public assistance and for use
269 in public assistance fraud investigations.†

270 (i) To the Agency for Health Care Administration pursuant
271 to an interagency agreement for the purpose of authorized
272 agencies verifying photographs in the Care Provider Background
273 Screening Clearinghouse authorized under s. 435.12.†

274 (j) To the Department of Financial Services pursuant to an
275 interagency agreement to facilitate the location of owners of
276 unclaimed property, the validation of unclaimed property claims,
277 the identification of fraudulent or false claims, and the
278 investigation of allegations of violations of the insurance code
279 by licensees and unlicensed persons.†

280 (k) To the Department of Economic Opportunity pursuant to
281 an interagency agreement to facilitate the validation of
282 reemployment assistance claims and the identification of
283 fraudulent or false reemployment assistance claims.†

284 (l) To district medical examiners pursuant to an
285 interagency agreement for the purpose of identifying a deceased
286 individual, determining cause of death, and notifying next of
287 kin of any investigations, including autopsies and other
288 laboratory examinations, authorized in s. 406.11.†

289 (m) To the following persons for the purpose of identifying
290 a person as part of the official work of a court:

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- 291 1. A justice or judge of this state;
- 292 2. An employee of the state courts system who works in a
293 position that is designated in writing for access by the Chief
294 Justice of the Supreme Court or a chief judge of a district or
295 circuit court, or by his or her designee; or
- 296 3. A government employee who performs functions on behalf
297 of the state courts system in a position that is designated in
298 writing for access by the Chief Justice or a chief judge, or by
299 his or her designee. ~~;~~ ~~or~~
- 300 (n) To the Agency for Health Care Administration pursuant
301 to an interagency agreement to prevent health care fraud. If the
302 Agency for Health Care Administration enters into an agreement
303 with a private entity to carry out duties relating to health
304 care fraud prevention, such contracts shall include, but need
305 not be limited to:
- 306 1. Provisions requiring internal controls and audit
307 processes to identify access, use, and unauthorized access of
308 information.
- 309 2. A requirement to report unauthorized access or use to
310 the Agency for Health Care Administration within 1 business day
311 after the discovery of the unauthorized access or use.
- 312 3. Provisions for liquidated damages for unauthorized
313 access or use of no less than \$5,000 per occurrence.
- 314 (5) (a) This subsection shall be known and may be cited as
315 the "Driver License Privacy Act."
- 316 (b) For purposes of this subsection, the term "agency that
317 primarily enforces immigration law" includes, but is not limited
318 to, United States Immigration and Customs Enforcement, United
319 States Customs and Border Protection, or any successor agencies

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320 that have similar duties.

321 (c) Except as required for the department to issue or renew
322 a driver license or learner's driver license that meets federal
323 standards for identification, the department may not disclose or
324 make accessible, in any manner, photographs and related
325 information pertaining to persons whose image or personal
326 identifying information is possessed by the department to any
327 agency that primarily enforces immigration law or to any
328 employee or agent of such agency, unless the department is
329 presented with a lawful court order or judicial warrant signed
330 by a judge appointed pursuant to Article III of the United
331 States Constitution. Within 3 days after receiving a request for
332 information under this subsection from such an agency, the
333 department must notify the person about whom such information
334 was requested of the request and the identity of the agency that
335 made such request.

336 (d) Before any person or entity receives or has access to
337 information from the department under this subsection, the
338 department must require such person or entity to certify to the
339 department that the person or entity will not:

340 1. Use such information for civil immigration purposes; or
341 2. Disclose such information to any agency that primarily
342 enforces immigration law or to any employee or agent of any such
343 agency unless such disclosure is pursuant to a cooperative
344 arrangement between municipal, state, and federal agencies, if
345 the arrangement does not enforce immigration law and if the
346 disclosure is limited to the specific information being sought
347 pursuant to the arrangement.

348 (e) In addition to any records required to be kept pursuant

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349 to 18 U.S.C. s. 2721(c), any person or entity that receives or
350 has access to information from the department under this
351 subsection must keep for a period of 5 years records:

352 1. Of all the uses of such department information; and

353 2. That identify each person or entity that primarily
354 enforces immigration law which receives such department
355 information from the person or entity.

356 (f) The records identified in subparagraphs (e)1. and 2.
357 must be maintained in a manner and form prescribed by department
358 rule and must be available for inspection by the department.

359 Section 4. Subsection (3) of section 322.17, Florida
360 Statutes, is amended to read:

361 322.17 Replacement licenses and permits.—

362 (3) Notwithstanding any other provision ~~provisions~~ of this
363 chapter, if a licensee establishes his or her identity for a
364 driver license using an identification document authorized under
365 s. 322.08(2)(c)7.-18. ~~s. 322.08(2)(c)7. or 8.~~, the licensee may
366 not obtain a duplicate or replacement instruction permit or
367 driver license except in person and upon submission of an
368 identification document authorized under s. 322.08(2)(c)7.-18.
369 ~~s. 322.08(2)(c)7. or 8.~~

370 Section 5. Paragraph (d) of subsection (2) and paragraph
371 (c) of subsection (4) of section 322.18, Florida Statutes, are
372 amended to read:

373 322.18 Original applications, licenses, and renewals;
374 expiration of licenses; delinquent licenses.—

375 (2) Each applicant who is entitled to the issuance of a
376 driver license, as provided in this section, shall be issued a
377 driver license, as follows:

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378 (d)1. Notwithstanding any other provision of this chapter,
379 if an applicant establishes his or her identity for a driver
380 license using a document authorized in s. 322.08(2)(c)7.-13. ~~s.~~
381 ~~322.08(2)(c)7. or 8.~~, the driver license shall expire 8 years ~~±~~
382 ~~year~~ after the date of issuance or upon the expiration date
383 cited on the ~~United States Department of Homeland Security~~
384 documents, whichever date first occurs.

385 2. Notwithstanding any other provision of this chapter, if
386 an applicant establishes his or her identity for a driver
387 license using a document authorized in s. 322.08(2)(c)14.-18.,
388 the driver license shall expire 8 years after the date of
389 issuance.

390 (4)

391 (c)1. Notwithstanding any other provision of this chapter,
392 if a licensee establishes his or her identity for a driver
393 license using an identification document authorized under s.
394 322.08(2)(c)7.-13. ~~s. 322.08(2)(c)7. or 8.~~, the licensee may not
395 renew the driver license except in person and upon submission of
396 an identification document authorized under s. 322.08(2)(c)7.-
397 13. ~~s. 322.08(2)(c)7. or 8.~~ A driver license renewed under this
398 subparagraph ~~paragraph~~ expires 8 years ~~1-year~~ after the date of
399 issuance or upon the expiration date cited on the ~~United States~~
400 ~~Department of Homeland Security~~ documents, whichever date first
401 occurs.

402 2. Notwithstanding any other provision of this chapter, if
403 a licensee establishes his or her identity for a driver license
404 using an identification document authorized under s.
405 322.08(2)(c)14.-18., the licensee may not renew the driver
406 license except in person and upon submission of an

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407 identification document authorized under s. 322.08(2)(c)14.-18.
408 A driver license renewed under this subparagraph expires 8 years
409 after the date of issuance.

410 Section 6. Subsection (4) of section 322.19, Florida
411 Statutes, is amended to read:

412 322.19 Change of address or name.-

413 (4) Notwithstanding any other provision of this chapter, if
414 a licensee established his or her identity for a driver license
415 using an identification document authorized under s.
416 322.08(2)(c)7.-18. ~~s. 322.08(2)(c)7. or 8.~~, the licensee may not
417 change his or her name or address except in person and upon
418 submission of an identification document authorized under s.
419 322.08(2)(c)7.-18. ~~s. 322.08(2)(c)7. or 8.~~

420 Section 7. Section 760.45, Florida Statutes, is created to
421 read:

422 760.45 Discrimination on the basis of certain driver
423 licenses prohibited.-

424 (1) A person or entity, including a business establishment
425 or an employer, may not discriminate against an individual
426 because the individual holds or presents a driver license that
427 does not comply with the REAL ID Act of 2005, Pub. L. No. 109-
428 13.

429 (2) An employer may not require an employee to present a
430 driver license unless possessing a driver license is required by
431 law or is lawfully required by the employer. This subsection may
432 not be construed to limit or expand an employer's authority to
433 require a person to possess a driver license.

434 (3) This section may not be construed to do either of the
435 following:

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436 (a) Alter an employer's rights or obligations under the
437 Immigration and Nationality Act, 8 U.S.C. s. 1324(a), regarding
438 obtaining documentation that evidences identity and
439 authorization for employment.

440 (b) Prohibit any other action taken by an employer which is
441 required under 8 U.S.C. s. 1324a(a).

442 (4) The state or a local government; an agent or person
443 acting on behalf of the state or a local government; or a
444 program or activity that is funded directly by, or receives
445 financial assistance from, the state may not discriminate
446 against an individual because the individual holds or presents a
447 driver license that does not comply with the REAL ID Act of
448 2005, Pub. L. No. 109-13. This prohibition includes, but is not
449 limited to, notifying a law enforcement agency of the
450 individual's identity or that the individual holds a driver
451 license that does not comply with the REAL ID Act of 2005, Pub.
452 L. No. 109-13, if a notification is not required by law or would
453 not have been provided if the individual's driver license had
454 been compliant with such act.

455 Section 8. This act shall take effect July 1, 2021.