

**Sixty-fifth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2017**

HOUSE BILL NO. 1128
(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to create and enact a new subsection to section 39-01-01 and section 39-06-14.2 of the North Dakota Century Code, relating to the definition of primary source identity document and driver's license central identity management; and to amend and reenact sections 39-06-01, 39-06-03.1, 39-06-07.1, and 39-06-18, subsection 5 of section 39-06-19, and sections 39-06-20 and 39-06.2-08 of the North Dakota Century Code, relating to operator's license and nondriver identification card criteria, license renewals, notice of change of address or name, and the application for commercial driver's license.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 39-01-01 of the North Dakota Century Code is created and enacted as follows:

"Primary source identity document" means documentary evidence of an individual's name, date of birth, and legal presence required in chapters 39-06 and 39-06.2 related to the issuance of permits, licenses, and nondriver photo identification cards, and retained in the driver record.

SECTION 2. AMENDMENT. Section 39-06-01 of the North Dakota Century Code is amended and reenacted as follows:

39-06-01. Operators must be licensed - Additional licensing - Penalty.

1. An individual, unless exempted in this section, may not drive any motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state unless the individual has a valid license as an operator under this chapter or a temporary operator's permit issued under chapter 39-20. An individual may not receive an operator's license ~~unless and/or a nondriver identification card~~ until that individual surrenders to the director all operator's licenses and, permits, and nondriver photo identification cards issued to that individual by any ~~jurisdiction~~state or country. If a license issued by another ~~jurisdiction~~state is surrendered, the director shall notify the issuing ~~jurisdiction~~state of the surrender. An individual may ~~not have more than one~~be issued either a valid operator's license or a nondriver identification card at any one time, but not both.
2. An individual licensed as an operator may exercise the privilege granted by the license on any highway in this state and may not be required to obtain any other license to exercise the privilege by any political subdivision having authority to adopt police regulations, except that municipalities may regulate occupations and may regulate the operation of taxicabs under subsection 27 of section 40-05-01.

SECTION 3. AMENDMENT. Section 39-06-03.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-03.1. Nondriver photo identification card issued by director - Release of information - Penalty - Public awareness.

1. The director shall issue a nondriver color photo identification card to any resident of this state who fulfills the requirements of this section. An application for an identification card must be made on a form furnished by the director. Within thirty days from receipt of a complete application that includes the applicant's social security number, unless the applicant is a

nonimmigrant who is not eligible for a social security number, the director shall determine whether to issue and, if appropriate, issue a nondriver photo identification card to an applicant. The director may not withhold the issuance of a nondriver color photo identification card without reasonable cause. If the applicant is under the age of eighteen or at least the age of eighteen and under the age of twenty-one, the photo must be against the same color background required on a motor vehicle operator's license for an operator of that age. Subject to section 39-06-19, identification cards expire eight years from the date of issue and may be renewed. The application must contain other information as the director may require to improve identity security.

2. To confirm the identity, date of birth, and legal presence of the applicant, the director or examining officer shall require satisfactory evidence be provided by the applicant. Satisfactory evidence includes a certified copy of the applicant's birth certificate or other evidence reasonably calculated to permit the determination of the date of birth, identification, and legal presence of the applicant by the director or examining officer. The director may require an applicant for an identification card to provide a social security card and proof of residence address.
3. The application fee is listed in section 39-06-49. Except for a duplicate or replacement card ~~or a card under subsection 7~~, the director may not charge a fee to provide a nondriver photo identification card to an eligible applicant.
4. Any information obtained by the director from an applicant for the issuance, renewal, or replacement of an identification card may not be released unless allowed under section 39-16-03.
5. The director may advertise the availability and the use of the card.
6. Identification cards issued under this section are sufficient identification for all identification purposes.
7. ~~An individual who possesses a driver's license may obtain a nondriver photo identification card.~~

SECTION 4. AMENDMENT. Section 39-06-07.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-07.1. Proof of name, date of birth, and legal presence for operator's license application - Primary source identity documents.

1. An applicant must verify the applicant's name, date of birth, and legal presence on any application by a certified birth certificate or any other documentary evidence that confirms to the satisfaction of the director the true identity, date of birth, and legal presence of the applicant.
2. Primary source identity documents retained by the department are not public records.

SECTION 5. Section 39-06-14.2 of the North Dakota Century Code is created and enacted as follows:

39-06-14.2. Driver license central identity management.

1. The director shall provide central identity management for all state agencies for citizens who possess a nondriver photo identification card or driver's license utilizing driver record data.
2. The director will provide access for identity verification. The director may not allow entities to transfer or collect identification data from the driver's license database, but shall create processes and procedures that enable verification of data without direct release of the data, except as authorized in chapter 39-33.

3. The director shall develop procedures to comply with this section.

SECTION 6. AMENDMENT. Section 39-06-18 of the North Dakota Century Code is amended and reenacted as follows:

39-06-18. Substitute operator's license.

If an operator's license or nondriver photo identification card issued under this chapter is lost, mutilated, or destroyed, or contains erroneous information due to a change in name, address, or for any other reason, the individual to whom the operator's license or identification card was issued may obtain a substitute, by furnishing proof satisfactory to the director that the operator's license or identification card has been lost, mutilated, or destroyed, or is erroneous, providing documentation that confirms to the satisfaction of the director the true identity, date of birth, and legal presence of the applicant and provide a social security card or other satisfactory evidence of a social security number and proof of residence address, if not previously completed or if there are changes to the information already on file, and upon payment of a fee listed in section 39-06-49. If an individual has a name change, the individual shall obtain a substitute license or identification card with the correct name.

SECTION 7. AMENDMENT. Subsection 5 of section 39-06-19 of the North Dakota Century Code is amended and reenacted as follows:

5. An applicant for renewal must present the application with the fee for renewal of license to the director not before ten months ~~before~~prior to the expiration date of the operator's license. The director may require an examination of an applicant as upon an original application. The director may require an applicant for renewal or a substitute to ~~provide a social security card and proof of residence address~~documentation that confirms to the satisfaction of the director the true identity, date of birth, and legal presence of the applicant and provide a social security card or other satisfactory evidence of a social security number and proof of residence address, if not previously completed or if there are changes to the information already on file. The director may not issue a distinguishing number that is, contains, can be converted to, or is an encrypted version of the applicant's social security number.

SECTION 8. AMENDMENT. Section 39-06-20 of the North Dakota Century Code is amended and reenacted as follows:

39-06-20. Notice of change of address or name.

If an individual after applying for or receiving an operator's license or identification card moves from the address named ~~in the application or on the license~~ or identification card, or if the name of a licensee is changed by marriage or otherwise, that individual within ten days after moving or the name change shall notify the director in writing or in person of that individual's old and new addresses or of the individual's former and new names and of the number of any operator's license or identification card then held by that person. An individual may obtain a corrected operator's license or identification card for address only changes, but must obtain a new operator's license or identification card for a name change, by making an application as provided for in section 39-06-18. The department may change the address based on information received from any authorized address correction service of the United States postal service. The department may also develop procedures for receiving notification of address changes by telephone ~~or~~ electronic means.

SECTION 9. AMENDMENT. Section 39-06.2-08 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-08. Application for commercial driver's license.

1. The application for a commercial driver's license or commercial learner's permit must include the following:
 - a. The full name and current residence and mailing address of the applicant;

- b. A physical description of the applicant, including sex, height, weight, and eye and hair color;
 - c. Date of birth;
 - d. The applicant's social security number, unless the application is for a nondomiciled commercial driver's license and the applicant is a resident of a foreign jurisdiction;
 - e. The applicant's signature;
 - f. The certifications including those required by 49 CFR part 383.71;
 - g. Any other information required by the director; and
 - h. A consent to release driving record information.
2. The application must be accompanied by an application fee listed in section 39-06.2-19. The application must contain any other information as the director may require to improve identity security. The director ~~may~~shall require an applicant for a commercial license or commercial learner's permit to ~~provide a social security card and proof of residence address~~documentary evidence that confirms to the satisfaction of the director the true identity, date of birth, and legal presence of the applicant and provide a social security card or other satisfactory evidence of a social security number and proof of residence address, if not previously provided or if there are changes to the information already on file.
 3. When the holder of a commercial driver's license changes the holder's name or ~~mailing~~residence address, an application for a ~~duplicate~~substitute license must be made under section 39-06-18.
 4. Any individual who knowingly falsifies information or certifications required under subsection 1 is subject to suspension, revocation, cancellation, or disqualification of the individual's commercial driver's license or pending application for a period of at least sixty consecutive days.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1128.

House Vote: Yeas 75 Nays 17 Absent 2

Senate Vote: Yeas 43 Nays 2 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2017.

Approved at _____ M. on _____, 2017.

Governor

Filed in this office this _____ day of _____, 2017,

at _____ o'clock _____ M.

Secretary of State