

REFERENCE TITLE: licenses; not proof of citizenship

State of Arizona
House of Representatives
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HB 2701

Introduced by
Representatives Hernandez L: Aguilar, Blattman, Contreras L, Crews, De Los Santos, Gutierrez, Hernandez A, Hernandez C, Hernandez M, Ortiz, Pawlik, Peshlakai, Schwiebert, Seaman, Shah, Sun, Travers, Tsosie, Villegas;
Senator Miranda

AN ACT

AMENDING SECTIONS 28-440, 28-3153, 28-3158, 28-3165 AND 28-3166, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 8, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-3176; RELATING TO DRIVER AND NONOPERATING IDENTIFICATION LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-440, Arizona Revised Statutes, is amended to
3 read:

4 28-440. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Bulk records" means multiple records that are retrieved
7 collectively from the department's database as a result of a single
8 request. Bulk records does not include retrieving one record at a time
9 from a single request.

10 2. "Duplicate" means a counterpart produced by any of the
11 following:

12 (a) The same impression or from the same matrix as the original.

13 (b) Means of photography, including enlargements and miniatures.

14 (c) Mechanical or electronic rerecording.

15 (d) Chemical reproduction.

16 (e) Any other equivalent technique that accurately reproduces the
17 original.

18 3. "Electronic signature" means an electronic sound, symbol or
19 process attached to or logically associated with a document and executed
20 or adopted by a person with the intent to sign the document.

21 4. "Express consent" means consent in writing, including consent
22 that is conveyed electronically and that bears an electronic signature.

23 5. "Highly restricted personal information" means an individual's
24 photograph or image, social security number, **INDIVIDUAL TAXPAYER**
25 **IDENTIFICATION NUMBER, FOREIGN GOVERNMENT-ISSUED IDENTIFICATION DOCUMENT**
26 **NUMBER** and medical or disability information.

27 6. "Insurance support organization" has the same meaning prescribed
28 in section 20-2102.

29 7. "Medical or disability information" means a restriction or
30 medical code placed on a person's motor vehicle record pursuant to section
31 28-3159, subsection A, paragraph 1 or section 28-3167.

32 8. "Motor vehicle record" means any record that pertains to a
33 driver license or permit, vehicle registration, vehicle title or
34 identification document issued by the department or its duly authorized
35 third parties, agents or contractors that are authorized to issue any of
36 those documents.

37 9. "Opt in" means a customer of the department has provided express
38 consent to the department to allow the release of the customer's personal
39 information, including highly restricted personal information, in a form
40 prescribed by the director.

41 10. "Original":

42 (a) Of a record means the record itself or any counterpart intended
43 to have the same effect by the person executing or issuing it.

44 (b) Of a photograph means the negative or a print from the
45 negative.

1 (c) Of data stored in a computer or similar device means a printout
2 or other output that is readable by sight and that is shown to reflect the
3 data accurately.

4 11. "Personal information" means information that identifies an
5 individual and that includes an individual's photograph, social security
6 number, driver identification number, name, address, telephone number and
7 medical or disability information. Personal information does not include
8 an individual's five-digit zip code and information about vehicular
9 accidents, driving violations and driver status.

10 12. "Photographs" includes still photographs, x-ray films,
11 videotapes, motion pictures and digitized electronic images.

12 13. "Records" has the same meaning prescribed in section 41-151.

13 14. "Vehicle history report" means a report that is developed to
14 track the registration and total loss history of a particular vehicle and
15 includes odometer readings and brand codes, title brand codes and any
16 related vehicle data. Vehicle history report does not include names and
17 addresses.

18 Sec. 2. Section 28-3153, Arizona Revised Statutes, is amended to
19 read:

20 28-3153. Driver license issuance; prohibitions

21 A. The department shall not issue the following:

22 1. A driver license to a person who is under eighteen years of age,
23 except that the department may issue:

24 (a) A restricted instruction permit for a class D or G license to a
25 person who is at least fifteen years of age.

26 (b) An instruction permit for a class D, G or M license as provided
27 by this chapter to a person who is at least fifteen years and six months
28 of age.

29 (c) A class G or M license as provided by this chapter to a person
30 who is at least sixteen years of age.

31 2. A class D, G or M license or instruction permit to a person who
32 is under eighteen years of age and who has been tried in adult court and
33 convicted of a second or subsequent violation of criminal damage to
34 property pursuant to section 13-1602, subsection A, paragraph 1 or
35 convicted of a felony offense in the commission of which a motor vehicle
36 is used, including theft of a motor vehicle pursuant to section 13-1802,
37 unlawful use of means of transportation pursuant to section 13-1803 or
38 theft of means of transportation pursuant to section 13-1814, or who has
39 been adjudicated delinquent for a second or subsequent act that would
40 constitute criminal damage to property pursuant to section 13-1602,
41 subsection A, paragraph 1 or adjudicated delinquent for an act that would
42 constitute a felony offense in the commission of which a motor vehicle is
43 used, including theft of a motor vehicle pursuant to section 13-1802,
44 unlawful use of means of transportation pursuant to section 13-1803 or

1 theft of means of transportation pursuant to section 13-1814, if committed
2 by an adult.

3 3. A class A, B or C license to a person who is under twenty-one
4 years of age, except that the department may issue a class A, B or C
5 license that is restricted to only intrastate driving to a person who is
6 at least eighteen years of age.

7 4. A license to a person whose license or driving privilege has
8 been suspended, during the suspension period.

9 5. Except as provided in section 28-3315, a license to a person
10 whose license or driving privilege has been revoked.

11 6. A class A, B or C license to a person who has been disqualified
12 from obtaining a commercial driver license.

13 7. A license to a person who on application notifies the department
14 that the person is an alcoholic as defined in section 36-2021 or a drug
15 dependent person as defined in section 36-2501, unless the person submits
16 a medical examination report that includes a current evaluation from a
17 substance abuse counselor indicating that, in the opinion of the
18 counselor, the condition does not affect or impair the person's ability to
19 safely operate a motor vehicle.

20 8. A license to a person who has been adjudged to be incapacitated
21 pursuant to section 14-5304 and who at the time of application has not
22 obtained either a court order that allows the person to drive or a
23 termination of incapacity as provided by law.

24 9. A license to a person who is required by this chapter to take an
25 examination unless the person successfully passes the examination.

26 10. A license to a person who is required under the motor vehicle
27 financial responsibility laws of this state to deposit proof of financial
28 responsibility and who has not deposited the proof.

29 11. A license to a person if the department has good cause to
30 believe that the operation of a motor vehicle on the highways by the
31 person would threaten the public safety or welfare.

32 12. A license to a person whose driver license has been ordered to
33 be suspended for failure to pay child support, except that a noncommercial
34 restricted license may be issued pursuant to section 25-518.

35 13. A class A, B or C license to a person whose license or driving
36 privilege has been canceled until the cause for the cancellation has been
37 removed.

38 14. A class A, B or C license or instruction permit to a person
39 whose state of domicile is not this state.

40 15. A class A, B or C license to a person who fails to demonstrate
41 proficiency in the English language as determined by the department.

42 B. The department shall not issue a driver license to or renew the
43 driver license of the following persons:

44 1. A person about whom the court notifies the department that the
45 person violated the person's written promise to appear in court when

1 charged with a violation of the motor vehicle laws of this state until the
2 department receives notification in a manner approved by the department
3 that the person appeared either voluntarily or involuntarily or that the
4 case has been adjudicated, that the case is being appealed or that the
5 case has otherwise been disposed of as provided by law.

6 2. If notified pursuant to section 28-1601, a person who fails to
7 pay a civil penalty as provided in section 28-1601, except for a parking
8 violation, until the department receives notification in a manner approved
9 by the department that the person paid the civil penalty, that the case is
10 being appealed or that the case has otherwise been disposed of as provided
11 by law.

12 C. The magistrate or the clerk of the court shall provide the
13 notification to the department prescribed by subsection B of this section.

14 ~~D. Notwithstanding any other law, the department shall not issue to
15 or renew a driver license or nonoperating identification license for a
16 person who does not submit proof satisfactory to the department that the
17 applicant's presence in the United States is authorized under federal law.
18 For an application for a driver license or a nonoperating identification
19 license, the department shall not accept as a primary source of
20 identification a driver license issued by a state if the state does not
21 require that a driver licensed in that state be lawfully present in the
22 United States under federal law. The director shall adopt rules necessary
23 to carry out the purposes of this subsection. The rules shall include
24 procedures for:~~

25 ~~1. Verification that the applicant's presence in the United States
26 is authorized under federal law.~~

27 ~~2. Issuance of a temporary driver permit pursuant to section
28 28-3157 pending verification of the applicant's status in the United
29 States.~~

30 Sec. 3. Section 28-3158, Arizona Revised Statutes, is amended to
31 read:

32 28-3158. Driver license or instruction permit application

33 A. A person who applies for an instruction permit or for a driver
34 license shall use a form furnished by the department.

35 B. An applicant shall pay the fee prescribed by section 28-3002 for
36 a driver license or for an instruction permit issued under section
37 28-3154, 28-3155, 28-3156 or 28-3225. The department shall refund an
38 application fee pursuant to section 28-373.

39 C. An applicant for an instruction permit or a driver license shall
40 give the department satisfactory proof of the applicant's full legal name,
41 date of birth, sex and domicile residence address in this state, if the
42 applicant has a residence address, ~~and that the applicant's presence in
43 the United States is authorized under federal law~~ AND SHALL GIVE THE
44 DEPARTMENT THE APPLICANT'S SOCIAL SECURITY NUMBER, INDIVIDUAL TAXPAYER

1 IDENTIFICATION NUMBER OR FOREIGN GOVERNMENT-ISSUED IDENTIFICATION DOCUMENT
2 NUMBER.

3 D. The application for an instruction permit or a driver license
4 shall state the following:

5 1. A brief description of the applicant and any other identifying
6 information required by the department.

7 2. Whether the applicant has been licensed, and if so, the type of
8 license issued, when the license was issued and what state or country
9 issued the license.

10 3. If the applicant was never licensed, the applicant's last
11 previous state or country of residence.

12 4. The social security number, INDIVIDUAL TAXPAYER IDENTIFICATION
13 NUMBER OR FOREIGN GOVERNMENT-ISSUED IDENTIFICATION DOCUMENT NUMBER of the
14 applicant.

15 E. The department shall:

16 1. Verify that a social security number, INDIVIDUAL TAXPAYER
17 IDENTIFICATION NUMBER OR FOREIGN GOVERNMENT-ISSUED IDENTIFICATION DOCUMENT
18 NUMBER provided by an applicant is a valid number assigned to that
19 applicant.

20 2. Retain the social security number, INDIVIDUAL TAXPAYER
21 IDENTIFICATION NUMBER OR FOREIGN GOVERNMENT-ISSUED IDENTIFICATION DOCUMENT
22 NUMBER in its records.

23 F. The social security number, INDIVIDUAL TAXPAYER IDENTIFICATION
24 NUMBER OR FOREIGN GOVERNMENT-ISSUED IDENTIFICATION DOCUMENT NUMBER
25 provided to the department pursuant to subsection D of this section for an
26 applicant's driver license or instruction permit shall not appear on an
27 applicant's driver license or instruction permit unless the applicant
28 requests that the social security number, INDIVIDUAL TAXPAYER
29 IDENTIFICATION NUMBER OR FOREIGN GOVERNMENT-ISSUED IDENTIFICATION DOCUMENT
30 NUMBER appear on the applicant's driver license or instruction permit as
31 the driver license or instruction permit number. Except as provided in
32 sections 28-455 and 41-1954, the department shall not release the social
33 security number, INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER OR FOREIGN
34 GOVERNMENT-ISSUED IDENTIFICATION DOCUMENT NUMBER to any person unless the
35 applicant requests that the social security number, INDIVIDUAL TAXPAYER
36 IDENTIFICATION NUMBER OR FOREIGN GOVERNMENT-ISSUED IDENTIFICATION DOCUMENT
37 NUMBER appear on the applicant's driver license or instruction permit as
38 the driver license or instruction permit number. The provisions of this
39 subsection shall be included in each application.

40 ~~G. The department may adopt and implement procedures to deny a~~
41 ~~driver license or instruction permit to a person who has been deported.~~
42 ~~The department may adopt and implement procedures to reinstate a person's~~
43 ~~privilege to apply for a driver license or permit if the person's legal~~
44 ~~presence status is restored.~~

1 ~~H.~~ G. On request of an applicant, the department shall allow the
2 applicant to provide on the license or permit a post office box address
3 that is regularly used by the applicant.

4 ~~I.~~ H. The department may request an applicant who appears in
5 person for a license, a duplicate license or reinstatement of a driving
6 privilege to complete satisfactorily the vision screening prescribed by
7 the department.

8 ~~J.~~ I. If a driver license applicant submits satisfactory proof to
9 the department that the applicant is a veteran, on request of the
10 applicant, the department shall allow a distinguishing mark to appear on
11 the license that identifies the person as a veteran.

12 Sec. 4. Section 28-3165, Arizona Revised Statutes, is amended to
13 read:

14 28-3165. Nonoperating identification license; immunity;
15 rules; emancipated minors; definition

16 A. On receipt of an application from a person who does not have a
17 valid driver license issued by this state or whose driving privilege is
18 suspended, the department shall issue a nonoperating identification
19 license that contains a distinguishing number assigned to the licensee,
20 the full legal name, the date of birth, the residence address and a brief
21 description of the licensee and either a facsimile of the signature of the
22 licensee or a space on which the licensee is required to write the
23 licensee's usual signature with pen and ink. A nonoperating
24 identification license that is issued to a person whose driving privilege
25 is suspended shall not be valid for more than one hundred eighty days from
26 the date of issuance.

27 B. On request of an applicant:

28 1. The department shall allow the applicant to provide on the
29 nonoperating identification license a post office box address that is
30 regularly used by the applicant.

31 2. If the applicant submits satisfactory proof to the department
32 that the applicant is a veteran, the department shall allow a
33 distinguishing mark to appear on the nonoperating identification license
34 that identifies that person as a veteran.

35 C. A person who is issued a license pursuant to this section shall
36 use it only for identification purposes of the licensee. The nonoperating
37 identification license does not grant authority to operate a motor vehicle
38 in this state. The department shall clearly label the nonoperating
39 identification license "for identification only, not for operation of a
40 motor vehicle".

41 D. On issuance of a driver license, the holder of a nonoperating
42 identification license shall surrender the nonoperating identification
43 license to the department and the department shall not refund any fee paid
44 for the issuance of the nonoperating identification license.

1 E. A nonoperating identification license shall contain the
2 photograph of the licensee. The department shall use a process in the
3 issuance of nonoperating identification licenses that prohibits as nearly
4 as possible the ability to superimpose a photograph on the license without
5 ready detection. The department shall process nonoperating identification
6 licenses and photo attachments in color.

7 F. On application, an applicant shall give the department
8 satisfactory proof of the applicant's full legal name, date of birth, sex
9 and residence address, if the applicant has a residence address, ~~and that~~
10 ~~the applicant's presence in the United States is authorized under federal~~
11 ~~law~~ AND SHALL GIVE THE DEPARTMENT THE APPLICANT'S SOCIAL SECURITY NUMBER,
12 INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER OR FOREIGN GOVERNMENT-ISSUED
13 IDENTIFICATION DOCUMENT NUMBER. The application shall briefly describe
14 the applicant, state whether the applicant has been licensed, and if so,
15 the type of license issued, when and by what state or country and whether
16 any such license is under suspension, revocation or cancellation. The
17 application shall contain other identifying information required by the
18 department.

19 ~~G. The department may adopt and implement procedures to deny a~~
20 ~~nonoperating identification license to a person who has been deported.~~
21 ~~The department may adopt and implement procedures to reinstate a person's~~
22 ~~privilege to apply for a nonoperating identification license if the~~
23 ~~person's legal presence status is restored.~~

24 ~~H.~~ G. A nonoperating identification license issued by the
25 department is solely for the use and convenience of the applicant for
26 identification purposes.

27 ~~I.~~ H. The department shall adopt rules and establish fees for
28 issuance of a nonoperating identification license, except that the
29 department shall not require an examination.

30 ~~J.~~ I. The fees established pursuant to this section do not apply
31 to any of the following:

- 32 1. A person who is sixty-five years of age or older.
- 33 2. A person who is a recipient of public monies as an individual
34 with a disability under title XVI of the social security act, as amended.
- 35 3. A veteran who does not have a residence address.
- 36 4. A veteran whose residence address is the address of a shelter
37 that provides services to the homeless.
- 38 5. A child WHO IS in the custody of the department of child safety.

39 ~~K.~~ J. If a person qualifies for a nonoperating identification
40 license and is under the legal drinking age, the department shall issue a
41 license that is marked by color, code or design to immediately distinguish
42 it from a nonoperating identification license issued to a person of legal
43 drinking age. The department shall indicate on the nonoperating
44 identification license issued pursuant to this subsection the year in
45 which the person will attain the legal drinking age.

1 ~~K.~~ K. If a minor has been emancipated pursuant to title 12,
2 chapter 15, on application and proof of emancipation, the department shall
3 issue a nonoperating identification license that contains the words
4 "emancipated minor".

5 ~~M.~~ L. Notwithstanding any other law, if an applicant for a
6 nonoperating identification license is at least sixteen years of age and
7 either does not have a residence address or is in the department of child
8 safety's custody, the applicant does not need a signature of the
9 applicant's parent, guardian, foster parent or employer.

10 M. IF A PERSON QUALIFIES FOR A NONOPERATING IDENTIFICATION LICENSE
11 AND DOES NOT PROVIDE A SOCIAL SECURITY NUMBER TO THE DEPARTMENT ON
12 APPLICATION, THE DEPARTMENT SHALL ISSUE A NONOPERATING IDENTIFICATION
13 LICENSE THAT CONTAINS THE WORDS "FEDERAL LIMITATIONS APPLY".

14 N. For the purposes of this section, "veteran" has the same meaning
15 prescribed in section 41-601.

16 Sec. 5. Section 28-3166, Arizona Revised Statutes, is amended to
17 read:

18 28-3166. Driver license content and application; marked
19 licenses; emancipated minors

20 A. The department shall issue a driver license to a qualified
21 applicant. The driver license shall contain a distinguishing number
22 assigned to the licensee, the license class, any endorsements, the
23 licensee's full name, date of birth and residence address, if the licensee
24 has a residence address, a brief description of the licensee and either a
25 facsimile of the signature of the licensee or a space on which the
26 licensee is required to write the licensee's usual signature with pen and
27 ink. A driver license is not valid until it is signed by the licensee.
28 On request of an applicant:

29 1. The department shall allow the applicant to provide on the
30 driver license a post office box address that is regularly used by the
31 applicant and that is located in the county in which the applicant
32 resides.

33 2. If the applicant submits satisfactory proof to the department
34 that the applicant is a veteran, the department shall allow a
35 distinguishing mark to appear on the license that identifies the person as
36 a veteran.

37 B. An application for a driver license and the driver license
38 issued shall contain the photo image of the applicant or licensee. ~~WHEN~~
39 ~~ISSUING A DRIVER LICENSE~~, the department shall use a process ~~in the~~
40 ~~issuance of driver licenses~~ that prohibits as nearly as possible the
41 ability to alter or reproduce the license or that prohibits the ability to
42 superimpose a photo image on the license without ready detection. The
43 department shall process driver licenses and photo images in color.

1 C. An applicant who is at least sixteen but under twenty-four years
2 of age shall provide the department with satisfactory proof of the
3 applicant's legal name and date of birth.

4 D. If a person is qualified for a driver license and is under the
5 legal drinking age, the department shall issue a license that is marked by
6 color, code or design to immediately distinguish it from a license issued
7 to a person of legal drinking age. The department shall indicate on the
8 driver license issued pursuant to this subsection the year in which the
9 person will attain the legal drinking age.

10 E. The department shall mark a special ignition interlock
11 restricted driver license issued pursuant to chapter 4, article 3.1 of
12 this title by color, code or design to immediately distinguish it from
13 other licenses issued by the department.

14 F. If a person is qualified for a driver license but is subject to
15 the certified ignition interlock device limitations prescribed in section
16 28-1381, 28-1382, 28-1383 or 28-3319, the department shall issue a license
17 that is marked by color, code or design to immediately distinguish it from
18 other licenses issued by the department.

19 G. The department shall not include information in the magnetic
20 stripe and bar code of a driver license other than information that the
21 department is authorized to obtain and place on a driver license pursuant
22 to this article.

23 H. If a minor has been emancipated pursuant to title 12, chapter
24 15, on application and proof of emancipation, the department shall issue a
25 driver license that contains the words "emancipated minor".

26 I. IF A PERSON IS QUALIFIED FOR A DRIVER LICENSE AND DOES NOT
27 PROVIDE A SOCIAL SECURITY NUMBER TO THE DEPARTMENT ON THE DRIVER LICENSE
28 OR INSTRUCTION PERMIT APPLICATION PURSUANT TO SECTION 28-3158, THE
29 DEPARTMENT SHALL ISSUE A DRIVER LICENSE THAT CONTAINS THE WORDS "FEDERAL
30 LIMITATIONS APPLY".

31 Sec. 6. Title 28, chapter 8, article 4, Arizona Revised Statutes,
32 is amended by adding section 28-3176, to read:

33 28-3176. Licenses; not proof of citizenship

34 POSSESSION OF A DRIVER LICENSE, AN INSTRUCTION PERMIT OR A
35 NONOPERATING IDENTIFICATION LICENSE ISSUED PURSUANT TO THIS CHAPTER IS NOT
36 PROOF OF CITIZENSHIP.