

1322

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. ORTIZ, JACOBS, V. LOPEZ, RAMOS, CASTRO -- Multi-Sponsored by -- M. of A. GOTTFRIED -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to authorizing the department of motor vehicles to issue drivers' licenses to certain foreign nationals

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The vehicle and traffic law is amended by adding a new
2 section 503-b to read as follows:
3 S 503-B. DRIVERS' LICENSES FOR FOREIGN NATIONALS. 1. THE DEPARTMENT
4 MAY, SUBJECT TO THE REQUIREMENTS OF THIS SECTION, ISSUE A DRIVER'S
5 LICENSE TO A FOREIGN NATIONAL WHO IS AN APPLICANT FOR A DRIVER'S LICENSE
6 AND WHO MEETS THE APPLICABLE REQUIREMENTS OF THIS CHAPTER BUT WHO IS
7 UNABLE TO SATISFY THE FORMS FOR PROOF OF IDENTITY PRESCRIBED IN SECTION
8 FIVE HUNDRED TWO OF THIS ARTICLE.
9 2. TO BE ELIGIBLE FOR A DRIVER'S LICENSE UNDER THIS SECTION, THE
10 APPLICANT MUST BE A CITIZEN OF A COUNTRY THAT MAINTAINS DIPLOMATIC
11 RELATIONS WITH THE UNITED STATES, IS NOT A THREAT TO THE UNITED STATES,
12 AS DETERMINED BY THE UNITED STATES GOVERNMENT, AND IS NOT ON A LIST OF
13 TERRORIST COUNTRIES MAINTAINED BY THE UNITED STATES GOVERNMENT.
14 3. AN APPLICANT FOR A DRIVER'S LICENSE UNDER THIS SECTION MUST:
15 (A)(I) PRESENT TO THE DEPARTMENT A CURRENT IDENTIFICATION CARD ISSUED
16 TO THE APPLICANT BY THE EMBASSY OR CONSULATE IN THE UNITED STATES OF HIS
17 OR HER COUNTRY OF CITIZENSHIP. THE IDENTIFICATION CARD MUST CONTAIN A
18 DIGITAL IMAGE OF THE APPLICANT AND HAVE BEEN PRODUCED USING SECURITY
19 MEASURES AND FEATURES TO PREVENT TAMPERING OR COUNTERFEITING WHICH
20 SATISFY STANDARDS PRESCRIBED BY THE DEPARTMENT.
21 (II) THE DEPARTMENT MAY PROVIDE FOR THE ACCEPTANCE OF AN ALTERNATIVE
22 FORM OF IDENTIFICATION TO THE IDENTIFICATION CARD UNDER SUBPARAGRAPH (I)

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 OF THIS PARAGRAPH INCLUDING A PASSPORT, NATIONAL IDENTITY CARD, OR OTHER
2 SIMILAR OFFICIAL PROOF OF IDENTIFICATION ISSUED BY THE GOVERNMENT OF THE
3 APPLICANT'S COUNTRY OF CITIZENSHIP.

4 (B) PRESENT A SECOND FORM OF IDENTIFICATION, IN ADDITION TO THE IDEN-
5 TIFICATION REQUIRED UNDER PARAGRAPH (A) OF THIS SUBDIVISION, WHICH IS
6 SUBJECT TO APPROVAL BY THE DEPARTMENT AND WHICH MAY INCLUDE, BUT NOT BE
7 LIMITED TO, AN EMPLOYER IDENTIFICATION CARD ISSUED BY THE UNITED STATES
8 GOVERNMENT OR AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER ISSUED BY THE
9 UNITED STATES GOVERNMENT.

10 (C) SUBMIT PROOF, TO THE SATISFACTION OF THE DEPARTMENT, OF AN ESTAB-
11 LISHED PRESENCE IN THIS STATE FOR AT LEAST SIX MONTHS DURING THE FIVE
12 YEARS PRECEDING THE DATE OF APPLICATION FOR A DRIVER'S LICENSE. THE
13 PROOF UNDER THIS PARAGRAPH MAY INCLUDE:

14 (I) DOCUMENTATION DEMONSTRATING OWNERSHIP OF, OR A LEASE ON, REAL
15 PROPERTY IN THIS STATE;

16 (II) UTILITY BILLS;

17 (III) BANK OR SIMILAR FINANCIAL RECORDS; OR

18 (IV) SALARY WARRANTS.

19 (D) AFFIRM TO THE DEPARTMENT THAT HE OR SHE HAS NOT BEEN CONVICTED OF
20 ANY CRIME THAT WOULD CONSTITUTE A FELONY IN THIS STATE AND IS NOT WANTED
21 FOR A CRIME THAT WOULD CONSTITUTE A FELONY IN THIS STATE BY ANY CRIMINAL
22 AUTHORITIES IN THE COUNTRY OF CITIZENSHIP OR IN THE UNITED STATES.

23 (E) DOCUMENT TO THE SATISFACTION OF THE DEPARTMENT THE NECESSITY TO
24 OPERATE A MOTOR VEHICLE FOR EMPLOYMENT, BUSINESS, OCCUPATIONAL, EDUCA-
25 TIONAL, MEDICAL, OR RELIGIOUS REASONS; FOR SUPPORT OF THE APPLICANT OR
26 THE APPLICANT'S FAMILY; OR THE OTHER SIMILAR REASONS PRESCRIBED BY THE
27 DEPARTMENT.

28 4. BEFORE ISSUING A DRIVER'S LICENSE UNDER THIS SECTION, THE DEPART-
29 MENT MUST:

30 (A) RECEIVE FROM THE EMBASSY OR CONSULATE IN THE UNITED STATES OF THE
31 APPLICANT'S COUNTRY OF CITIZENSHIP THE FOLLOWING INFORMATION ABOUT THE
32 APPLICANT AVAILABLE FROM OFFICIAL RECORDS MAINTAINED BY THE GOVERNMENT
33 OF THAT COUNTRY:

34 (I) DOCUMENTATION THAT THE APPLICANT HAS NOT BEEN CONVICTED OF A CRIME
35 IN THE COUNTRY WHICH WOULD CONSTITUTE A FELONY IN THIS STATE AND IS NOT
36 WANTED FOR ANY CRIME THAT WOULD CONSTITUTE A FELONY IN THIS STATE BY THE
37 COUNTRY'S NATIONAL CRIMINAL AUTHORITIES OR BY THE CRIMINAL AUTHORITY OF
38 ANY STATE, PROVINCE, OR SIMILAR JURISDICTION IN THE COUNTRY.

39 (II) A CERTIFIED COPY OF THE APPLICANT'S OFFICIAL DRIVING RECORD, IF
40 AVAILABLE, FROM HIS OR HER COUNTRY OF CITIZENSHIP.

41 (III) CERTIFICATION BY THE EMBASSY OR CONSULATE THAT THE FORM OF IDEN-
42 TIFICATION SUBMITTED BY THE APPLICANT UNDER SUBDIVISION THREE OF THIS
43 SECTION IS LEGITIMATE. IF THE FORM OF IDENTIFICATION SUBMITTED BY THE
44 APPLICANT IS AN IDENTIFICATION CARD ISSUED BY THE EMBASSY OR CONSULATE,
45 THE DEPARTMENT MUST RECEIVE FROM THE EMBASSY OR CONSULATE A CERTIF-
46 ICATION OF THE LEGITIMACY OF ANY UNDERLYING DOCUMENTS THAT THE EMBASSY
47 OR CONSULATE RELIED UPON IN ISSUING THE IDENTIFICATION CARD TO THE
48 APPLICANT. AN APPLICANT FOR A DRIVER'S LICENSE UNDER THIS SECTION MUST
49 ARRANGE FOR THE EMBASSY OR CONSULATE TO SUBMIT THE INFORMATION DIRECTLY
50 TO THE DEPARTMENT ON BEHALF OF THE APPLICANT.

51 (B) RECEIVE A CERTIFICATION FROM THE EMBASSY OR CONSULATE IN THE
52 UNITED STATES OF THE APPLICANT'S COUNTRY OF CITIZENSHIP THAT THE COUNTRY
53 MAINTAINS A SECURITY SYSTEM TO PREVENT THE ISSUANCE OF MULTIPLE IDENTI-
54 TIES TO ONE INDIVIDUAL. THE DEPARTMENT MAY USE A SINGLE CERTIFICATION AS
55 A BASIS FOR PROCESSING MULTIPLE APPLICATIONS FOR DRIVERS' LICENSES TO
56 INDIVIDUALS FROM THE SAME COUNTRY. A CERTIFICATION, HOWEVER, EXPIRES TWO

1 YEARS AFTER THE DATE AN EMBASSY OR CONSULATE SUBMITS IT TO THE DEPART-
2 MENT. WHEN THE CERTIFICATION EXPIRES, THE DEPARTMENT MAY NOT ISSUE OR
3 RENEW A DRIVER'S LICENSE FOR A FOREIGN NATIONAL FROM THAT COUNTRY OF
4 CITIZENSHIP UNTIL THE DEPARTMENT RECEIVES A NEW CERTIFICATION.

5 (C) VERIFY AS NECESSARY THROUGH THE UNITED STATES CITIZENSHIP AND
6 IMMIGRATION SERVICES WITHIN THE UNITED STATES DEPARTMENT OF HOMELAND
7 SECURITY THAT THE APPLICANT IS NOT SUBJECT TO AN ORDER OF DEPORTATION
8 ISSUED BY THE UNITED STATES GOVERNMENT.

9 (D) CONDUCT A CRIMINAL BACKGROUND CHECK THROUGH THE DIVISION OF CRIMI-
10 NAL JUSTICE SERVICES AND THE FEDERAL BUREAU OF INVESTIGATION.

11 (E) VERIFY THROUGH THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE
12 FEDERAL BUREAU OF INVESTIGATION THAT THE APPLICANT IS NOT A SECURITY
13 RISK TO THE STATE OR THE UNITED STATES.

14 5. A DRIVER'S LICENSE ISSUED BY THE DEPARTMENT UNDER THIS SECTION:

15 (A) MUST INDICATE THE INDIVIDUAL'S IMMIGRATION STATUS THROUGH THE
16 MAGNETIC STRIP ON THE BACK OF SUCH LICENSE, OR SHALL BE PROVIDED FOR BY
17 LICENSE CLASSIFICATION.

18 (B) IS VALID FOR A PERIOD NOT TO EXCEED THREE YEARS FOLLOWING THE DATE
19 THE DEPARTMENT ISSUES THE PERMIT.

20 (C) IS VALID FOR USE IN THIS STATE ONLY AND MUST INCLUDE A STATEMENT
21 PROMINENTLY PLACED THAT THE DRIVER'S LICENSE IS VALID FOR USE IN THIS
22 STATE ONLY.

23 6. A FOREIGN NATIONAL WHO IS ISSUED A DRIVER'S LICENSE UNDER THIS
24 SECTION MAY APPLY TO THE DEPARTMENT TO RENEW THE DRIVER'S LICENSE IF THE
25 FOREIGN NATIONAL OTHERWISE QUALIFIES FOR RENEWAL UNDER THIS CHAPTER. THE
26 DEPARTMENT MAY RENEW A DRIVER'S LICENSE FOR A PERIOD NOT TO EXCEED THREE
27 YEARS IF:

28 (A) THE APPLICANT FOR RENEWAL OF A DRIVER'S LICENSE SUBMITS PROOF OF
29 IDENTIFICATION THAT SATISFIES SUBDIVISION THREE OF THIS SECTION.

30 (B) THE DEPARTMENT CONDUCTS A CRIMINAL BACKGROUND AND SECURITY CHECK
31 OF THE INDIVIDUAL.

32 (C) THE DEPARTMENT VERIFIES THROUGH THE UNITED STATES CITIZENSHIP AND
33 IMMIGRATION SERVICES WITHIN THE UNITED STATES DEPARTMENT OF HOMELAND
34 SECURITY THAT THE APPLICANT IS NOT SUBJECT TO AN ORDER OF DEPORTATION
35 ISSUED BY THE UNITED STATES GOVERNMENT.

36 (D) THE DEPARTMENT VERIFIES WITH THE DIVISION OF CRIMINAL JUSTICE
37 SERVICES AND THE FEDERAL BUREAU OF INVESTIGATION THAT THE APPLICANT IS
38 NOT A SECURITY RISK TO THE STATE OR THE UNITED STATES.

39 7. THE DEPARTMENT MAY NOT ISSUE A DRIVER'S LICENSE OR RENEW A DRIVER'S
40 LICENSE UNDER THIS SECTION IF THE APPLICANT HAS BEEN CONVICTED OF A
41 CRIME IN THE UNITED STATES OR IN ANY OTHER COUNTRY WHICH WOULD BE CLAS-
42 SIFIED AS A FELONY IN THIS STATE.

43 8. FOREIGN NATIONAL APPLICANTS MEETING THE REQUIREMENTS OF THIS
44 SECTION MUST SHOW PROOF SATISFACTORY TO THE DEPARTMENT. ALL LICENSES
45 ISSUED UNDER THIS SECTION SHALL BE SUBJECT TO THE PENALTY PROVISIONS OF
46 THIS CHAPTER FOR ANY VIOLATION OF SUCH SECTION WHICH OCCURS WITH RESPECT
47 TO SUCH A DRIVER'S LICENSE.

48 9. A DRIVER'S LICENSE ISSUED UNDER THIS SECTION IS PROPERTY OF THE
49 STATE. A PERSON IN POSSESSION OF A DRIVER'S LICENSE MUST PROVIDE IT TO
50 A LAW ENFORCEMENT OFFICER UPON REQUEST. A LAW ENFORCEMENT OFFICER HAVING
51 A REASONABLE BELIEF THAT A PERSON POSSESSES, OR IS USING, A LICENSE IN
52 VIOLATION OF THIS SECTION OR ANY OTHER LAW MAY SEIZE THE DRIVER'S
53 LICENSE. A PERSON FROM WHOM A LAW ENFORCEMENT OFFICER SEIZES A DRIVER'S
54 LICENSE UNDER THIS SUBDIVISION DOES NOT HAVE A CAUSE OF ACTION AGAINST
55 THE LAW ENFORCEMENT OFFICER FOR THE SEIZURE OF THE DRIVER'S LICENSE.

1 10. THE DEPARTMENT MAY CANCEL ANY DRIVER'S LICENSE ISSUED UNDER THIS
2 SECTION UPON DETERMINING THAT THE FOREIGN NATIONAL IS NO LONGER ENTITLED
3 TO THE ISSUANCE OF THE DRIVER'S LICENSE.

4 11. (A) THE DEPARTMENT SHALL ESTABLISH FEES NOT TO EXCEED FIFTY
5 DOLLARS (\$50.00) ABOVE THE EXISTING FEES FOR OBTAINING A DRIVER'S
6 LICENSE FOR THE INITIAL ISSUANCE AND THE RENEWAL OF THE LICENSE UNDER
7 THIS SECTION. THE FEES MUST ACCOUNT FOR COSTS RELATED TO CONDUCTING
8 CRIMINAL BACKGROUND CHECKS, VERIFYING IMMIGRATION STATUS, AND VERIFYING
9 SECURITY RISKS RELATED TO THE APPLICANT AS REQUIRED UNDER THIS SECTION.

10 (B) ALL FEES COLLECTED UNDER THIS SECTION SHALL BE DEPOSITED IN THE
11 NEW YORK STATE DEPARTMENT OF TRANSPORTATION HIGHWAY SAFETY PROGRAM FUND
12 PURSUANT TO SECTION NINETY OF THE STATE FINANCE LAW.

13 S 2. This act shall take effect on the first of October next succeed-
14 ing the date on which it shall have become a law; provided, however,
15 that the commissioner of motor vehicles shall promulgate any rules and
16 regulations necessary for the timely implementation of the provisions of
17 this act on or before such effective date.