

3109

2013-2014 Regular Sessions

I N A S S E M B L Y

January 23, 2013

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-a to read as follows:
3 S 503-A. 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)
23 OF THIS PARAGRAPH INCLUDING A PASSPORT, NATIONAL IDENTITY CARD, OR OTHER

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

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1 SIMILAR OFFICIAL PROOF OF IDENTIFICATION ISSUED BY THE GOVERNMENT OF THE
2 APPLICANT'S COUNTRY OF CITIZENSHIP.

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

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

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

15 (II) UTILITY BILLS;

16 (III) BANK OR SIMILAR FINANCIAL RECORDS; OR

17 (IV) SALARY WARRANTS.

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

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

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

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

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

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

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

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

MENT. WHEN THE CERTIFICATION EXPIRES, THE DEPARTMENT MAY NOT ISSUE OR RENEW A DRIVER'S LICENSE FOR A FOREIGN NATIONAL FROM THAT COUNTRY OF CITIZENSHIP UNTIL THE DEPARTMENT RECEIVES A NEW CERTIFICATION.

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

(D) CONDUCT A CRIMINAL BACKGROUND CHECK THROUGH THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE FEDERAL BUREAU OF INVESTIGATION.

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

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

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

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

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

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

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

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

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

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

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

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

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