

STATE OF NEW YORK

10729

IN SENATE

October 28, 2026

Introduced by Sen. LIU -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the vehicle and traffic law, in relation to allowing drivers to contest license revocations, suspensions, and other penalties based on cases of mistaken identity and require identity verification prior to adverse administrative action

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known as the "Mistaken Identity
2 Prevention Act."

3 § 2. The vehicle and traffic law is amended by adding a new section
4 229 to read as follows:

5 § 229. Identity verification. 1. As used in this section:

6 (a) "Covered record" means any conviction, judgment, order, violation,
7 or other record relied upon by the department in taking or proposing an
8 adverse administrative action against an individual.

9 (b) "Adverse administrative action" means any suspension, revocation,
10 cancellation, denial, or other restriction of a driver's license,
11 learner's permit, registration, or privilege to operate a motor vehicle,
12 or the imposition or enforcement of a civil penalty.

13 (c) "Three-point identity match" means verification of an individual's
14 identity through the individual's full legal name and at least two addi-
15 tional independent identifiers, including but not limited to date of
16 birth, social security number, driver's license or identification
17 number, subject to documented and verified variations attributable to a
18 lawful name change, clerical error, or other objectively established
19 circumstance.

20 2. (a) Notwithstanding any other provision of law, the department
21 shall not rely upon a covered record to impose or maintain an adverse
22 administrative action against an individual unless the department estab-
23 lishes a three-point identity match between such individual and the
24 person identified in such record. In establishing a three-point identity
25 match, the department shall:

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

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1 (i) verify the individual's full legal name, including any documented
2 former or alternate legal name, and at least two additional independent
3 identifying data points against the underlying source record or other
4 reliable, independently verifiable records;

5 (ii) ensure that each identifying data point relied upon is attribut-
6 able to the individual and to the person identified in the covered
7 record;

8 (iii) document the identifying data points relied upon and the records
9 used to verify each such data point; and

10 (iv) not treat the absence of an identifying data point in an incom-
11 plete, illegible or unavailable source record as evidence that the indi-
12 vidual is the person identified in such record.

13 (b) A match based solely upon a person's name, or upon a name and one
14 additional identifying data point, shall not satisfy the requirements of
15 this subdivision. Where the department is unable to establish a three-
16 point identity match, it shall not impose or maintain an adverse admin-
17 istrative action against the individual based upon such covered record.

18 3. In any proceeding where an adverse administrative action is based
19 upon a covered record, the department shall bear the burden of estab-
20 lishing that the record pertains to the individual against whom the
21 action is proposed or being considered. No presumption that the covered
22 record pertains to the individual shall be based solely from the covered
23 record bearing the same or a substantially similar name as that individ-
24 ual. The department's burden under this section shall include establish-
25 ing a three-point identity match in accordance with subdivision two of
26 this section. The individual shall not be required to establish that the
27 covered record pertains to another person in order to contest the iden-
28 tity match.

29 4. Before taking an adverse administrative action based upon a covered
30 record, the department shall provide written notice to the affected
31 individual, identifying the record, the nature of the proposed adverse
32 administrative action, and the procedure for contesting the identity
33 match. Upon request, the department shall provide the individual with
34 access to the nonconfidential identifying information and supporting
35 documentation relied upon to establish the three-point identity match,
36 subject to applicable privacy and confidentiality laws. The affected
37 individual shall be afforded a reasonable opportunity to contest the
38 identity match and submit information demonstrating that the covered
39 record does not pertain to such individual. The department shall consid-
40 er any such information before making a final determination to impose or
41 maintain the adverse administrative action.

42 5. (a) Notwithstanding any other provision of this chapter, upon
43 receipt by the commissioner of a sworn affidavit from an individual
44 asserting that a covered record relied upon by the department pertains
45 to another person, the commissioner shall immediately stay any suspen-
46 sion, revocation, cancellation, or other adverse administrative action
47 based upon such record, pending resolution of the identity dispute
48 pursuant to this subdivision.

49 (b) The affidavit shall identify, to the extent reasonably known to
50 the affiant, the disputed record and the basis for the claim of mistaken
51 identity. The commissioner may prescribe a form for such affidavit,
52 provided that the form shall not require the affiant to produce documen-
53 tation that is not reasonably available to the affiant as a condition of
54 obtaining the stay.

55 (c) Where the adverse administrative action has not yet taken effect,
56 the action shall not take effect while the stay is in force. Where the

1 action has already taken effect, the commissioner shall promptly restore
2 the affected license, registration, or privilege to the status existing
3 immediately before such action, to the extent the action is based upon
4 the disputed covered record.

5 (d) Within thirty days after receipt of the affidavit, the commission-
6 er shall review the claim and determine whether the department can
7 establish the identity match required by this section. The commissioner
8 may extend such period once, for not more than thirty additional days,
9 upon written notice to the affiant stating the specific reasons addi-
10 tional time is necessary.

11 (e) The stay shall remain in effect until the commissioner issues a
12 written determination resolving the identity dispute. If the commission-
13 er fails to issue a determination within the period prescribed by para-
14 graph (d) of this subdivision, the stay shall continue until a determi-
15 nation is issued.

16 (f) The commissioner shall provide the affiant with written notice of
17 the determination, including the reasons therefor and notice of any
18 available administrative appeal. Any determination adverse to the affi-
19 ant shall identify the evidence establishing the identity match and
20 shall be subject to review pursuant to applicable law.

21 (g) A stay under this subdivision shall not prevent the commissioner
22 from taking action based upon an independent and legally sufficient
23 ground unrelated to the disputed covered record.

24 (h) No individual shall be subject to a civil or criminal penalty
25 solely for operating a motor vehicle during a period in which the indi-
26 vidual's license or privilege has been restored pursuant to this subdi-
27 vision, provided that such individual is otherwise duly licensed and no
28 other lawful suspension or revocation is in effect.

29 6. The commissioner may promulgate rules and regulations necessary to
30 implement this section, including procedures for the submission and
31 review of affidavits and the correction of erroneous records.

32 § 3. This act shall take effect January 1, 2028.