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REFERENCE TITLE: driver licenses not citizenship proof

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

HB 2255

Introduced by
Representatives Avelar, Miranda, Lugo, Senator Aguirre: Representatives
Camarot, Clark

AN ACT

**AMENDING SECTIONS 28-3153, 28-3158 AND 28-3165, ARIZONA REVISED STATUTES;
AMENDING TITLE 28, CHAPTER 8, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING
SECTION 28-3175; 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 28-3153, Arizona Revised Statutes, is amended to
3 read:

4 28-3153. Driver license issuance; prohibitions

5 A. The department shall not issue the following:

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

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

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

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

15 2. A class D, G or M license or instruction permit to a person who is
16 under eighteen years of age and who has been tried in adult court and
17 convicted of a second or subsequent violation of criminal damage to property
18 pursuant to section 13-1602, subsection A, paragraph 1 or convicted of a
19 felony offense in the commission of which a motor vehicle is used, including
20 theft of a motor vehicle pursuant to section 13-1802, unlawful use of means
21 of transportation pursuant to section 13-1803 or theft of means of
22 transportation pursuant to section 13-1814, or who has been adjudicated
23 delinquent for a second or subsequent act that would constitute criminal
24 damage to property pursuant to section 13-1602, subsection A, paragraph 1 or
25 adjudicated delinquent for an act that would constitute a felony offense in
26 the commission of which a motor vehicle is used, including theft of a motor
27 vehicle pursuant to section 13-1802, unlawful use of means of transportation
28 pursuant to section 13-1803 or theft of means of transportation pursuant to
29 section 13-1814, if committed by an adult.

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

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

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

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

40 7. A license to a person who on application notifies the department
41 that the person is an alcoholic as defined in section 36-2021 or a drug
42 dependent person as defined in section 36-2501, unless the person
43 successfully completes the medical screening process pursuant to section
44 28-3052 or submits a medical examination report that includes a current
45 evaluation from a certified substance abuse counselor indicating that, in the

1 opinion of the counselor, the condition does not affect or impair the
2 person's ability to safely operate a motor vehicle.

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

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

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

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

15 12. A license to a person whose driver license has been ordered to be
16 suspended pursuant to section 25-518.

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

19 1. A person about whom the court notifies the department that the
20 person violated the person's written promise to appear in court when charged
21 with a violation of the motor vehicle laws of this state until the department
22 receives notification in a manner approved by the department that the person
23 appeared either voluntarily or involuntarily or that the case has been
24 adjudicated, that the case is being appealed or that the case has otherwise
25 been disposed of as provided by law.

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

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

33 ~~D. Notwithstanding any other law, the department shall not issue to or~~
34 ~~renew a driver license or nonoperating identification license for a person~~
35 ~~who does not submit proof satisfactory to the department that the applicant's~~
36 ~~presence in the United States is authorized under federal law. The director~~
37 ~~shall adopt rules necessary to carry out the purposes of this subsection. The~~
38 ~~rules shall include procedures for:~~

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

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

1 Sec. 2. Section 28-3158, Arizona Revised Statutes, is amended to read:
2 28-3158. Driver license or instruction permit application

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

5 B. An applicant shall pay the fee prescribed by section 28-3002 for a
6 driver license or for an instruction permit issued under section 28-3154,
7 28-3155, 28-3156 or 28-3225. Payment of the fee required by this section
8 entitles the applicant to not more than three attempts to pass the written
9 examination or road test within twelve months from the date of the
10 application. The department shall refund an application fee pursuant to
11 section 28-373. An applicant who submits documentation of successful
12 completion of a driver education course approved by the department is not
13 required to take the road test.

14 C. An applicant for an instruction permit or a driver license shall
15 give the department satisfactory proof of the applicant's full legal name,
16 date of birth, sex and residence address ~~and that the applicant's presence in~~
17 ~~the United States is authorized under federal law.~~

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

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

22 2. Whether the applicant has been licensed, and if so, the type of
23 license issued, when the license was issued and what state or country issued
24 the license.

25 3. Whether the license was suspended or revoked or whether an
26 application was ever refused, and if so, the date of and reason for the
27 suspension, revocation or refusal.

28 4. If the applicant was never licensed, the applicant's last previous
29 state or country of residence.

30 5. UNLESS THE APPLICATION IS FOR A NONRESIDENT COMMERCIAL DRIVER
31 LICENSE, the social security number of the applicant ~~unless the application~~
32 ~~is for a nonresident commercial driver license~~, EXCEPT THAT, IF THE APPLICANT
33 DOES NOT POSSESS A SOCIAL SECURITY NUMBER, THE APPLICANT MAY PROVIDE ANY OF
34 THE FOLLOWING:

35 (a) A TAXPAYER IDENTIFICATION NUMBER.

36 (b) A LETTER FROM THE SOCIAL SECURITY ADMINISTRATION STATING THAT THE
37 APPLICANT IS NOT ELIGIBLE TO OBTAIN A SOCIAL SECURITY NUMBER.

38 (c) A SWORN AFFIDAVIT.

39 (d) A FOREIGN PASSPORT, WITH OR WITHOUT A UNITED STATES VISA.

40 E. IF AN APPLICANT PROVIDES A SOCIAL SECURITY NUMBER, the department
41 shall:

42 1. Verify that a social security number provided by an applicant is a
43 valid number assigned to that applicant.

44 2. Retain the social security number in its records.

1 F. The social security number provided to the department pursuant to
2 subsection D of this section for an applicant's driver license or instruction
3 permit shall not appear on an applicant's driver license or instruction
4 permit unless the applicant requests that the social security number appear
5 on the applicant's driver license or instruction permit as the driver license
6 or instruction permit number. Except as provided in sections 28-450 and
7 41-1954, the department shall not release the social security number to any
8 person unless the applicant requests that the social security number appear
9 on the applicant's driver license or instruction permit as the driver license
10 or instruction permit number. The provisions of this subsection shall be
11 included in each application.

12 ~~G. The department may adopt and implement procedures to deny a driver
13 license or instruction permit to a person who has been deported. The
14 department may adopt and implement procedures to reinstate a person's
15 privilege to apply for a driver license or permit if the person's legal
16 presence status is restored.~~

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

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

23 Sec. 3. Section 28-3165, Arizona Revised Statutes, is amended to read:
24 28-3165. Nonoperating identification license; rules

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

35 B. On request of an applicant, the department shall allow the
36 applicant to provide on the nonoperating identification license a post office
37 box address that is regularly used by the applicant.

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

44 D. On issuance of a driver license, the holder of a nonoperating
45 identification license shall surrender the nonoperating identification

1 license to the department and the department shall not refund any fee paid
2 for the issuance of the nonoperating identification license.

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

9 F. On application, an applicant shall give the department satisfactory
10 proof of the applicant's full legal name, date of birth, sex and residence
11 address ~~and that the applicant's presence in the United States is authorized~~
12 ~~under federal law.~~ The application shall briefly describe the applicant,
13 state whether the applicant has been licensed, and if so, the type of license
14 issued, when and by what state or country and whether any such license is
15 under suspension, revocation or cancellation. The application shall contain
16 other identifying information required by the department.

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

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

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

28 ~~J.~~ I. A person who is sixty-five years of age or older and a person
29 who is a recipient of public monies as a disabled individual under title XVI
30 of the social security act, as amended, are exempt from the fees established
31 pursuant to this section.

32 ~~K.~~ J. If a person qualifies for a nonoperating identification license
33 and is under the legal drinking age, the department shall issue a license
34 that is marked by color, code or design to immediately distinguish it from a
35 nonoperating identification license issued to a person of legal drinking age.
36 The department shall indicate on the nonoperating identification license
37 issued pursuant to this subsection the year in which the person will attain
38 the legal drinking age.

39 Sec. 4. Title 28, chapter 8, article 4, Arizona Revised Statutes, is
40 amended by adding section 28-3175, to read:

41 28-3175. Licenses; not proof of citizenship

42 POSSESSION OF A DRIVER LICENSE, AN INSTRUCTION PERMIT OR A NONOPERATING
43 IDENTIFICATION LICENSE ISSUED PURSUANT TO THIS CHAPTER IS NOT PROOF OF UNITED
44 STATES CITIZENSHIP.