

Senate Bill No. 60

Passed the Senate August 31, 2008

Secretary of the Senate

Passed the Assembly August 29, 2008

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 40000.11 of, to amend, repeal, and add Sections 12801.5 and 14610.7 of, and to add Sections 1653.6 and 12801.1 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 60, Cedillo. Vehicles: driver's licenses.

(1) Existing law requires the Department of Motor Vehicles, upon proper application, to issue driver's licenses and identification cards.

This bill would require the department, in the issuance of driver's licenses and identification cards, to issue licenses and cards that are in compliance with specified requirements of the federal Real ID Act of 2005 (Public Law 109-13).

The bill would require the department to issue a driver's license that permits driving and is acceptable by a federal agency for any official purpose, as certified by the federal Secretary of Homeland Security, to an applicant who is in compliance with specified requirements of specified provisions of the federal act, no later than 240 days after the United States Secretary of Homeland Security approves the state's implementation plan of the federal act.

The bill also would require the department, in compliance with the federal act, and no later than 240 days after the United States Secretary of Homeland Security approves the state's implementation plan, to issue a driver's license that permits driving, and is not acceptable by a federal agency for federal identification or for any other official purpose, to an applicant who does not provide valid documentary evidence of lawful status under the federal act.

(2) Existing law requires the department to require every applicant for an original driver's license or identification card to submit satisfactory proof that the applicant's presence in the United States is authorized under federal law and prohibits the department from issuing a license or card to a person who does not do so. Existing law requires the department to adopt regulations, including procedures for verifying citizenship or legal residency of applicants

for driver's licenses and identification cards, and to make a specified annual report.

This bill would repeal those requirements on the date that the Secretary of State receives a notice from the Director of Motor Vehicles indicating the date that the department shall commence the issuance of driver's licenses in compliance with the implementation of the federal Real ID Act of 2005.

(3) Existing law makes it a misdemeanor for a person to knowingly assist in obtaining a driver's license or identification card for a person whose presence in the United States is not authorized under federal law.

This bill would repeal that provision, and, instead, would make it a misdemeanor to knowingly assist in obtaining documents for another person in violation of the federal Real ID Act of 2005. These changes would become operative on the date of receipt by the Secretary of State of the notice described above.

Because this bill would create a new crime, this bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(5) The bill would provide that its provisions are severable.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the California Real ID Act of 2007.

SEC. 2. The Legislature intends by the enactment of this act to accomplish the following:

(a) Meet or exceed the document and issuance standards set forth in the federal Real ID Act of 2005 (Public Law 109-13), to ensure that California has a federally recognized and acceptable driver's license and identification card.

(b) Provide driver's licenses that permit driving, but cannot be used for federal identification purposes, consistent with the federal Real ID Act of 2005, to California drivers that cannot meet the

minimum identity confirmation requirements necessary to obtain a federally recognized driver's license or identification card.

SEC. 3. Section 1653.6 is added to the Vehicle Code, to read:

1653.6. In the issuance of a driver's license and identification card under this code, the department shall issue a driver's license and an identification card that are in compliance with Section 202 of Title II of the federal Real ID Act of 2005 (Public Law 109-13).

SEC. 4. Section 12801.1 is added to the Vehicle Code, to read:

12801.1. (a) No later than 240 days after the United States Secretary of Homeland Security approves the state's implementation plan of the federal Real ID Act of 2005 (Public Law 109-13), the department shall issue a driver's license that permits driving and is acceptable by a federal agency for any official purpose, as certified by the Secretary of Homeland Security, to an applicant who is in compliance with the requirements of Section 202 of Title II of the federal Real ID Act of 2005.

(b) The department, in compliance with the federal Real ID Act of 2005, and no later than 240 days after the United States Secretary of Homeland Security approves the state's implementation plan, shall issue a driver's license that permits driving, and is not acceptable by a federal agency for federal identification or for any other official purpose pursuant to paragraph (11) of subsection (d) of Section 202 of Title II of the federal Real ID Act of 2005, to an applicant who does not meet the requirements of subparagraph (B) of paragraph (2) of subsection (c) of Section 202 of that federal act.

SEC. 5. Section 12801.5 of the Vehicle Code is amended to read:

12801.5. (a) Notwithstanding any other provision of law, the department shall require an applicant for an original driver's license or identification card to submit satisfactory proof that the applicant's presence in the United States is authorized under federal law.

(b) The department shall not issue an original driver's license or identification card to a person who does not submit satisfactory proof that the applicant's presence in the United States is authorized under federal law.

(c) The department shall adopt regulations to carry out the purposes of this section, including procedures for, but not limited to, (1) verifying that the applicant's presence in the United States

is authorized under federal law, (2) issuance of a temporary license pending verification of the applicant's status, and (3) appeal hearings from a denial of a license, temporary license, or identification card.

(d) On January 10 of each year, the department shall submit a supplemental budget report to the Governor and the Legislature detailing the costs of verifying the citizenship or legal residency of applicants for driver's licenses and identification cards, in order for the state to request reimbursement from the federal government.

(e) Notwithstanding Section 40300 or any other provision of law, a peace officer shall not detain or arrest a person solely on the belief that the person is an unlicensed driver, unless the officer has reasonable cause to believe the person driving is under 16 years of age.

(f) The inability to obtain a driver's license pursuant to this section does not abrogate or diminish in any respect the legal requirement of every driver in this state to obey the motor vehicle laws of this state, including laws with respect to licensing, motor vehicle registration, and financial responsibility.

(g) (1) The director shall determine the date that the department shall commence the issuance of driver's licenses under Section 12801.1.

(2) The director shall submit a notice of the determination under paragraph (1) to the Secretary of State, and on the date of the receipt of that notice by the Secretary of State, this section is repealed.

SEC. 6. Section 12801.5 is added to the Vehicle Code, to read:

12801.5. (a) Notwithstanding any other provision of law, a peace officer shall not detain or arrest a person solely on the belief that the person is an unlicensed driver, unless the officer has reasonable cause to believe that the person driving is under 16 years of age.

(b) The inability to obtain a driver's license pursuant to this code does not abrogate or diminish in any respect the legal requirement of a driver in this state to obey the motor vehicle laws of this state, including laws with respect to licensing, motor vehicle registration, and financial responsibility.

(c) This section shall become operative upon the receipt by the Secretary of State of the notice specified in paragraph (2) of

subdivision (g) of Section 12801.5, as amended by Section 5 of the act that added this section.

SEC. 7. Section 14610.7 of the Vehicle Code is amended to read:

14610.7. (a) It is a misdemeanor for a person to knowingly assist in obtaining a driver's license or identification card for a person whose presence in the United States is not authorized under federal law.

(b) This section is repealed on the date that the Secretary of State receives the notice described in paragraph (2) of subdivision (g) of Section 12801.5, as amended by Section 5 of the act that amended this section. The repeal of this section shall not be construed to forgive or legalize conduct prohibited by this section that was committed prior to the repeal date.

SEC. 8. Section 14610.7 is added to the Vehicle Code, to read:

14610.7. (a) (1) A person shall not knowingly assist in obtaining a driver's license, identification card, or any other document for another person in violation of Section 202 of Title II of the federal Real ID Act of 2005 (Public Law 109-13).

(2) A violation of paragraph (1) is a misdemeanor.

(b) This section is cumulative and shall not be construed as restricting the application of any other law. However, an act or omission punishable differently by this section and another section of this code or any other code shall not be punished under more than one of those sections.

(c) This section shall become operative upon the receipt by the Secretary of State of the notice specified in paragraph (2) of subdivision (g) of Section 12801.5, as amended by Section 5 of the act that added this section.

SEC. 9. Section 40000.11 of the Vehicle Code is amended to read:

40000.11. A violation of any of the following is a misdemeanor, and not an infraction:

(a) Division 5 (commencing with Section 11100), relating to occupational licensing and business regulations.

(b) Subdivision (a) of Section 12500, relating to unlicensed drivers.

(c) Subdivision (b) of Section 12515, relating to persons under 21 years of age driving, and the employment of those persons to

drive, vehicles engaged in interstate commerce or transporting hazardous material.

(d) Section 12517, relating to a special driver's certificate to operate a schoolbus or school pupil activity bus.

(e) Subdivision (a) of Section 12519, relating to a special driver's certificate to operate a farm labor vehicle.

(f) Section 12520, relating to a special driver's certificate to operate a tow truck.

(g) Subdivision (b) of Section 12951, relating to refusal to display a license.

(h) Section 13004, relating to unlawful use of an identification card.

(i) Section 13004.1, relating to identification documents.

(j) Sections 14601, 14601.1, 14601.2, and 14601.5, relating to driving with a suspended or revoked driver's license.

(k) Section 14604, relating to unlawful use of a vehicle.

(l) Section 14610, relating to unlawful use of a driver's license.

(m) Section 14610.1, relating to identification documents.

(n) Section 14610.7, relating to assisting in the unlawful attainment of identification documents.

(o) Section 15501, relating to use of a false or fraudulent license by a minor.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 11. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Approved _____, 2008

Governor