

AMENDED IN ASSEMBLY APRIL 30, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2113

Introduced by Assembly Member Hueso

February 23, 2012

An act to add Chapter 8 (commencing with Section 15400) to Division 6 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2113, as amended, Hueso. Vehicles: ~~driver's licenses~~; enhanced driver's license.

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

The federal Western Hemisphere Travel Initiative facilitates travel within the western hemisphere by authorizing the use of enhanced driver's licenses and identification cards meeting specified requirements as travel documents.

This bill would authorize the Department of Motor Vehicles to enter into a memorandum of understanding with a federal agency for the purposes of facilitating travels within the western hemisphere pursuant to the *federal* Western Hemisphere Travel Initiative through the issuance of an enhanced driver's license, instruction permit, provisional license, or identification card. The bill would authorize the department to issue or renew, upon request, an enhanced driver's license, instruction permit, provisional license, or identification card for specified persons. The bill would require a person applying for the initial issuance or renewal of an enhanced driver's license, instruction permit, provisional license, or

identification card to submit, under the penalty of perjury, additional proof of identity, residency, and citizenship that satisfies the requirements of the *federal* Western Hemisphere Travel Initiative. Because the knowledge of the submission of fraudulent information is a crime, this bill would create a new crime, thereby imposing a state-mandated local program. The bill would, except as specified, prohibit the disclosure of information submitted to the department. Because a violation of the Vehicle Code is a crime, this bill would impose a state-mandated local program. *The bill would prohibit an employer from requiring an employee to apply for, or use, an enhanced driver's license or identification card as a condition of employment or to discriminate or otherwise retaliate against an employee who refuses to apply for, or use, an enhanced driver's license or identification card. Because a violation of this provision is a crime, this bill would impose a state-mandated local program. The bill would require the department to submit an annual report to specified committees of the Legislature on the implementation of the enhanced driver's license and identification card. The bill would require*~~the~~ *a person applying for an enhanced driver's license, instruction permit, provisional license, or identification card to submit an additional application fee of \$75. The bill would establish the Enhanced Driver's License and Identification Card Subaccount in the Motor Vehicle Account and would require the additional fee to be deposited into the subaccount. The bill would, upon appropriation by the Legislature, require the moneys in the subaccount to be expended by the department in implementing the above provisions.*

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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Every year, there are over 45 million personal vehicle
- 4 passengers and 15 million pedestrians crossing into the state from
- 5 Mexico.

1 (b) Border crossers have an economic impact on the state,
2 accounting annually for four billion five hundred thousand dollars
3 (\$4,000,500,000) in economic benefits and 67,000 jobs.

4 (c) Border wait times during peak hours average 120 minutes
5 on weekdays and even longer on weekends.

6 (d) More than 8 million trips are lost due to congestion each
7 year in the San Ysidro Port of Entry, the busiest port of entry in
8 the world.

9 (e) In the San Diego region alone, this translates into a revenue
10 loss of nearly one billion three hundred thousand dollars
11 (\$1,000,300,000), 3 million potential working hours, 35,000 jobs,
12 and forty-two million dollars (\$42,000,000) in wages.

13 (f) It is estimated that border wait times will significantly
14 increase in the future and an additional 15 minutes in border wait
15 times will affect productivity in the binational border region by
16 an additional one billion dollars (\$1,000,000,000) in costs and a
17 loss of 134,000 jobs.

18 (g) Since border wait times impede international travel, trade,
19 and commerce, the Legislature must address this problem to protect
20 California's jobs and economy.

21 (h) After the 9/11 attacks, the federal government enacted the
22 *federal* Western Hemisphere Travel Initiative (WHTI; Public Law
23 110-53), to facilitate entry for United States citizens and legitimate
24 foreign visitors, while strengthening United States border security,
25 by requiring United States and Canadian travelers to present a
26 passport or other documents that denote identity and citizenship
27 when entering the United States. The documentation requirements
28 of the WHTI went into effect in 2007 for air travel into the United
29 States and in 2009 for land and sea travel.

30 (i) In addition to a passport and other documents, the federal
31 government approved, for cross-border travel, the use of an
32 enhanced driver's license (EDL), which is a standard state-issued
33 driver's license that has been enhanced in process, technology,
34 and security to denote identity and citizenship for purposes of
35 entering the United States at the land and sea ports of entry. An
36 EDL contains radio frequency identification (RFID) technology,
37 which allows information contained in a wireless device or tag to
38 be read from a distance, and eliminates the need to key in travelers,
39 translating into a 60 percent faster processing than manual queries.

1 (j) Another advantage of an EDL is that it can be used in “Ready
2 Lanes,” which were created by the United States Customs and
3 Border Protection and are used as primary vehicle lanes dedicated
4 to travelers who possess RFID-enabled travel documents.

5 (k) The use of an EDL as an RFID-enabled travel document is
6 already in place in the states of Washington, New York, Michigan,
7 and Vermont.

8 (l) The use of ~~EDL’s~~ EDLs in the state will open the way for
9 the United States Customs and Border Protection to convert more
10 vehicle lanes into ready lanes, which will decrease border wait
11 times by an average of 30 minutes and thus provide a significant,
12 long-term economic benefit to the state, while strengthening border
13 security.

14 SEC. 2. Chapter 8 (commencing with Section 15400) is added
15 to Division 6 of the Vehicle Code, to read:

16
17 CHAPTER 8. ENHANCED DRIVER’S LICENSE AND IDENTIFICATION
18 CARD
19

20 15400. The department may enter into a memorandum of
21 understanding with a federal agency for the purposes of obtaining
22 approval for the issuance of an enhanced driver’s license,
23 instruction permit, provisional license, or identification card that
24 is acceptable as proof of identity and citizenship pursuant to the
25 *federal* Western Hemisphere Travel Initiative (Public Law ~~No.~~
26 110-53).

27 15401. (a) ~~(1)~~ Upon the request of an applicant, the department
28 may issue an initial enhanced driver’s license, instruction permit,
29 provisional license, or identification card to, or renew ~~an~~ *the*
30 enhanced driver’s license, instruction permit, provisional license,
31 or identification card ~~to~~ *of*, a person who satisfies all of the
32 following:

- 33 (1) Is 16 years of age or older.
- 34 (2) Is a resident of this state.
- 35 (3) Is a citizen of the United States.

36 (b) (1) In addition to other information required pursuant to
37 Chapter 1 (commencing with Section 12500), the applicant shall
38 submit sufficient proof that meets the requirements of the *federal*
39 Western Hemisphere Travel Initiative (Public Law 110-53) to
40 establish his or her identity, residency, and citizenship.

1 (2) The applicant shall certify, under the penalty of perjury, that
2 the information submitted pursuant to paragraph (1) is true and
3 correct to the best knowledge of the applicant.

4 (3) The applicant shall sign a declaration acknowledging his or
5 her understanding of radio frequency identification technology.

6 (c) The department shall include, in the enhanced driver's
7 license, instruction permit, provisional license, or identification
8 card, reasonable security measures, *including tamper-resistant*
9 *features to prevent unauthorized duplication or cloning and to*
10 *protect against unauthorized disclosure of personal information*
11 *regarding the person who is the subject of the license, permit, or*
12 *card.*

13 (d) The enhanced driver's license, instruction permit, provisional
14 license, or identification card shall include both of the following:

15 (1) Radio frequency identification technology that will ~~signal~~
16 ~~a secure system to pull up the person's biographic and biometric~~
17 ~~data for the cross border patrol~~ *contain only a randomly assigned*
18 *number that shall be encrypted if agreed to by the United States*
19 *Department of Homeland Security, and shall not contain any*
20 *personal data, biometric information, or number other than the*
21 *randomly assigned number.*

22 (2) A machine readable zone or barcode that can be
23 electronically read by the cross border patrol *and contains only as*
24 *much information as is required by the federal Western Hemisphere*
25 *Travel Initiative (Public Law 110-53) to permit a border crossing.*

26 (e) An enhanced driver's license may be suspended, revoked,
27 or restricted pursuant to this code.

28 (f) (1) *An employer shall not require an employee to apply for,*
29 *or use, an enhanced driver's license or identification card as a*
30 *condition of employment.*

31 (2) *An employer shall not discharge an employee or otherwise*
32 *discriminate or retaliate against an employee who refuses to apply*
33 *for, or use, an enhanced driver's license or identification card.*

34 15402. (a) An applicant applying for an initial enhanced
35 driver's license, instruction permit, provisional license, or
36 identification card, or renewing an enhanced driver's license,
37 instruction permit, provisional license, or identification card, shall
38 have his or her facial image and signature captured or reproduced
39 by the department at the time of application or renewal.

1 (b) The facial image and signature ~~may be available to the~~
2 ~~following entities:~~ *shall only be available to the United States*
3 *Customs and Border Protection database or as required by the*
4 *United States Department of Homeland Security for purposes of*
5 *facilitating the purpose of the federal Western Hemisphere Travel*
6 *Initiative (Public Law 110-53).*

7 ~~(1) A federal, state, or local government agency for law~~
8 ~~enforcement purposes authorized by law.~~

9 ~~(2) Another state to the extent authorized by federal law.~~

10 ~~(3) The department for purposes authorized by law.~~

11 ~~(4) Any other entities, if the person provides written~~
12 ~~authorization for the release of his or her facial image or signature.~~

13 (c) Except as provided in subdivision (b), the department shall
14 not disclose the person's facial image or signature, or copies of a
15 digital image of any document required pursuant to this chapter.

16 (d) (1) The department shall examine and verify the
17 genuineness, regularity, and legality of an application and proof
18 submitted to the department for an initial or renewal of an enhanced
19 driver's license, instruction permit, provisional license, or
20 identification card.

21 (2) The department may require the submission of additional
22 information to establish identity, residency, and citizenship.

23 (3) The department shall deny an application or renewal of an
24 enhanced driver's license, instruction permit, provisional license,
25 or identification card if the department is not satisfied with the
26 genuineness, regularity, and legality of the application or
27 supporting documentation or the truth of any statement contained
28 in the application or supporting documentation, or for any other
29 reason authorized by law.

30 (4) An applicant may, pursuant to Article 3 (commencing with
31 Section 14100), appeal the department's denial of an application
32 for the issuance or renewal of an enhanced driver's license,
33 instruction permit, provisional license, or identification card.

34 (e) Except as provided in subdivision (f), the department shall
35 retain copies or digital images of documents provided by the person
36 pursuant to this chapter.

37 (f) Notwithstanding subdivision (e), and except as required by
38 other law, in the case of the denial of an application for the issuance
39 or renewal of an enhanced driver's license, instruction permit,
40 provisional license, or identification card, the department shall

1 retain the facial image of the applicant and the reason for denial
2 for not less than one year, unless fraud is suspected, in which case
3 the applicant's facial image and the reason for denial shall be
4 retained for not less than 10 years.

5 (g) The facial image, signature, copies, and digital image of
6 documents required pursuant to this section are exempt from public
7 disclosure pursuant to the *California* Public Records Act (Chapter
8 3.5 (commencing with Section 6250) of Division 7 of Title 1 of
9 the Government Code).

10 (h) Except as required by federal law, information submitted
11 by an applicant pursuant to this chapter shall not be disclosed to
12 a foreign nation.

13 15403. (a) In addition to fees required pursuant to this division,
14 a person requesting the initial issuance or renewal of an enhanced
15 driver's license, instruction permit, provisional license, or
16 identification card shall submit an additional nonrefundable
17 application fee of seventy-five dollars (\$75) with the application.

18 (b) Fees submitted shall be deposited into the Enhanced Driver's
19 License and Identification Card Subaccount established pursuant
20 to Section 15404.

21 15404. (a) There is hereby established the Enhanced Driver's
22 License and Identification Card Subaccount in the Motor Vehicle
23 Account. Moneys in the subaccount shall, upon appropriation by
24 *the Legislature*, be expended by the department to implement this
25 chapter.

26 (b) Moneys in the subaccount, including any interest accrued,
27 shall remain in the subaccount at the end of each fiscal year.

28 15405. *The department shall submit an annual report to the*
29 *Assembly and Senate Committees on Judiciary, the Senate*
30 *Committee on Transportation and Housing, and the Assembly*
31 *Committee on Transportation. The report shall include, but not*
32 *be limited to, information on the number of enhanced driver's*
33 *licenses and identification cards issued, the effect on wait times*
34 *and traffic congestion at points of entry, and whether or not there*
35 *have been any security or privacy breaches related to the use of*
36 *the enhanced driver's licenses and identification cards.*

37 SEC. 3. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

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