

ASSEMBLY BILL

No. 17

**Introduced by Assembly Member Hueso
(Coauthors: Assembly Members Alejo, Lowenthal, Perea, and
Williams)**

December 3, 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 17, as introduced, Hueso. Vehicles: 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 purpose 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, the 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 would be a crime, this bill would impose a state-mandated local program.

The bill would also 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 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 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 EDLs in the state will open the way for the United
9 States Customs and Border Protection to convert more vehicle
10 lanes into ready lanes, which will decrease border wait times by
11 an average of 30 minutes and thus provide a significant, long-term
12 economic benefit to the state, while strengthening border security.

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

15

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

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 110-53).

26 15401. (a) Upon the request of an applicant, the department
27 may issue an initial enhanced driver’s license, instruction permit,
28 provisional license, or identification card to, or renew the enhanced
29 driver’s license, instruction permit, provisional license, or
30 identification card of, a person who satisfies all of the following:

31 (1) Is 16 years of age or older.

32 (2) Is a resident of this state.

33 (3) Is a citizen of the United States.

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

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

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

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

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

12 (1) Radio frequency identification technology that will contain
13 only a randomly assigned number that shall be encrypted if agreed
14 to by the United States Department of Homeland Security, and
15 shall not contain any personal data, biometric information, or
16 number other than the randomly assigned number.

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

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

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

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

29 15402. (a) An applicant applying for an initial enhanced
30 driver's license, instruction permit, provisional license, or
31 identification card, or renewing an enhanced driver's license,
32 instruction permit, provisional license, or identification card, shall
33 have his or her facial image and signature captured or reproduced
34 by the department at the time of application or renewal.

35 (b) The facial image and signature shall only be available to the
36 United States Customs and Border Protection database or as
37 required by the United States Department of Homeland Security
38 for purposes of facilitating the purpose of the federal Western
39 Hemisphere Travel Initiative (Public Law 110-53).

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

4 (d) (1) The department shall examine and verify the
5 genuineness, regularity, and legality of an application and proof
6 submitted to the department for an initial or renewal of an enhanced
7 driver's license, instruction permit, provisional license, or
8 identification card.

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

11 (3) The department shall deny an application or renewal of an
12 enhanced driver's license, instruction permit, provisional license,
13 or identification card if the department is not satisfied with the
14 genuineness, regularity, and legality of the application or
15 supporting documentation or the truth of any statement contained
16 in the application or supporting documentation, or for any other
17 reason authorized by law.

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

22 (e) The department shall retain copies or digital images of
23 documents provided by the person pursuant to this chapter.

24 (f) Notwithstanding subdivision (e), and except as required by
25 other law, in the case of the denial of an application for the issuance
26 or renewal of an enhanced driver's license, instruction permit,
27 provisional license, or identification card, the department shall
28 retain the facial image of the applicant and the reason for denial
29 for not less than one year, unless fraud is suspected, in which case
30 the applicant's facial image and the reason for denial shall be
31 retained for not less than 10 years.

32 (g) The facial image, signature, copies, and digital image of
33 documents required pursuant to this section are exempt from public
34 disclosure pursuant to the California Public Records Act (Chapter
35 3.5 (commencing with Section 6250) of Division 7 of Title 1 of
36 the Government Code).

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

1 15403. (a) In addition to fees required pursuant to this division,
2 a person requesting the initial issuance or renewal of an enhanced
3 driver's license, instruction permit, provisional license, or
4 identification card shall submit an additional nonrefundable
5 application fee of seventy-five dollars (\$75) with the application.

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

9 15404. (a) There is hereby established the Enhanced Driver's
10 License and Identification Card Subaccount in the Motor Vehicle
11 Account. Moneys in the subaccount shall, upon appropriation by
12 the Legislature, be expended by the department to implement this
13 chapter.

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

16 15405. The department shall submit an annual report in
17 compliance with Section 9795 of the Government Code to the
18 Assembly and Senate Committees on Judiciary, the Senate
19 Committee on Transportation and Housing, and the Assembly
20 Committee on Transportation. The report shall include, but not be
21 limited to, information on the number of enhanced driver's licenses
22 and identification cards issued, the effect on wait times and traffic
23 congestion at points of entry, and whether or not there have been
24 any security or privacy breaches related to the use of the enhanced
25 driver's licenses and identification cards.

26 SEC. 3. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.

- 1 _____
- 2 **CORRECTIONS:**
- 3 **Heading—Coauthors—Page 1.**
- 4 **Text—Page 4.**
- 5 _____

O