

ASSEMBLY BILL

No. 1660

Introduced by Assembly Member Alejo

February 12, 2014

An act to amend Section 12801.9 of the Vehicle Code, relating to driver's licenses.

LEGISLATIVE COUNSEL'S DIGEST

AB 1660, as introduced, Alejo. Driver's licenses: nondiscrimination.

Existing law requires the Department of Motor Vehicles to issue an original driver's license to a person who is unable to submit satisfactory proof that the applicant's presence in the United States is authorized under federal law if he or she meets all other qualifications for licensure and provides satisfactory proof to the department of his or her identity and California residency. Existing law makes it a violation of law, including, but not limited to, a violation of the Unruh Civil Rights Act, to discriminate against an individual because he or she holds or presents a driver's license issued under these provisions.

This bill would prohibit a governmental authority, or agent of a governmental authority, or person acting on behalf of a governmental authority, from discriminating against an individual because he or she holds or presents a license issued pursuant to those provisions. The bill would deem an action taken by an employer to comply with any requirement or prohibition under the federal Immigration and Nationality Act as not being a violation of the Unruh Civil Rights Act.

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

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

SECTION 1. Section 12801.9 of the Vehicle Code is amended to read:

12801.9. (a) Notwithstanding Section 12801.5, the department shall issue an original driver's license to a person who is unable to submit satisfactory proof that the applicant's presence in the United States is authorized under federal law if he or she meets all other qualifications for licensure and provides satisfactory proof to the department of his or her identity and California residency.

(b) The department shall adopt emergency regulations to carry out the purposes of this section, including, but not limited to, procedures for (1) identifying documents acceptable for the purposes of proving identity and California residency, (2) procedures for verifying the authenticity of the documents, (3) issuance of a temporary license pending verification of any document's authenticity, and (4) hearings to appeal a denial of a license or temporary license.

(c) Emergency regulations adopted for purposes of establishing the documents acceptable to prove identity and residency pursuant to subdivision (b) shall be promulgated by the department in consultation with appropriate interested parties, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), including law enforcement representatives, immigrant rights representatives, labor representatives, and other stakeholders, which may include, but are not limited to, the California Highway Patrol, the California State Sheriffs' Association, and the California Police Chiefs Association. The department shall accept various types of documentation for this purpose, including, but not limited to, the following documents:

(1) A valid, unexpired consular identification document issued by a consulate from the applicant's country of citizenship, or a valid, unexpired passport from the applicant's country of citizenship.

(2) An original birth certificate, or other proof of age, as designated by the department.

(3) A home utility bill, lease or rental agreement, or other proof of California residence, as designated by the department.

1 (4) The following documents, which, if in a language other than
2 English, shall be accompanied by a certified translation or an
3 affidavit of translation into English:

4 (A) A marriage license or divorce certificate.

5 (B) A foreign federal electoral photo card issued on or after
6 January 1, 1991.

7 (C) A foreign driver's license.

8 (5) A United States Department of Homeland Security Form
9 I-589, Application for Asylum and for Withholding of Removal.

10 (6) An official school or college transcript that includes the
11 applicant's date of birth, or a foreign school record that is sealed
12 and includes a photograph of the applicant at the age the record
13 was issued.

14 (7) A United States Department of Homeland Security Form
15 I-20 or Form DS-2019.

16 (8) A deed or title to real property.

17 (9) A property tax bill or statement issued within the previous
18 12 months.

19 (10) An income tax return.

20 (d) (1) A license issued pursuant to this section, including a
21 temporary license issued pursuant to Section 12506, shall include
22 a recognizable feature on the front of the card, such as the letters
23 "DP" instead of, and in the same font size as, the letters "DL,"
24 with no other distinguishable feature.

25 (2) The license shall bear the following notice: "This card is
26 not acceptable for official federal purposes. This license is issued
27 only as a license to drive a motor vehicle. It does not establish
28 eligibility for employment, voter registration, or public benefits."

29 (3) The notice described in paragraph (2) shall be in lieu of the
30 notice provided in Section 12800.5.

31 (e) If the United States Department of Homeland Security
32 determines a license issued pursuant to this section does not satisfy
33 the requirements of Section 37.71 of Title 6 of the Code of Federal
34 Regulations, adopted pursuant to paragraph (11) of subdivision
35 (d) of Section 202 of the Real ID Act of 2005 (Public Law 109-13),
36 the department shall modify the license only to the extent necessary
37 to satisfy the requirements of that section.

38 (f) Notwithstanding Section 40300 or any other law, a peace
39 officer shall not detain or arrest a person solely on the belief that

1 the person is an unlicensed driver, unless the officer has reasonable
2 cause to believe the person driving is under 16 years of age.

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

8 (h) It shall be a violation of law, including, but not limited to,
9 a violation of the Unruh Civil Rights Act (Section 51 of the Civil
10 Code), to discriminate against an individual because he or she
11 holds or presents a license issued under this section.
12 *Notwithstanding the foregoing, any action taken by an employer*
13 *to comply with any requirement or prohibition under the federal*
14 *Immigration and Nationality Act (8 U.S.C. Sec. 1101) is not a*
15 *violation of the Unruh Civil Rights Act (Section 51 of the Civil*
16 *Code). This section does not conflict with the employment*
17 *authorization verification requirements of the Immigration and*
18 *Nationality Act.*

19 (i) A governmental authority, or agent of a governmental
20 authority, or person acting on behalf of a governmental authority,
21 shall not discriminate against an individual because he or she
22 holds or presents a license issued pursuant to this section.

23 ~~(i)~~

24 (j) Information collected pursuant to this section is not a public
25 record and shall not be disclosed by the department, except as
26 required by law.

27 ~~(j)~~

28 (k) A license issued pursuant to this section shall not be used
29 to consider an individual's citizenship or immigration status as a
30 basis for a criminal investigation, arrest, or detention.

31 ~~(k)~~

32 (l) On or before January 1, 2018, the California Research Bureau
33 shall compile and submit to the Legislature and the Governor a
34 report of any violations of subdivisions (h) and ~~(j)~~ (k). Information
35 pertaining to any specific individual shall not be provided in the
36 report.

37 ~~(l)~~

38 (m) In addition to the fees required by Section 14900, a person
39 applying for an original license pursuant to this section may be
40 required to pay an additional fee determined by the department

1 that is sufficient to offset the reasonable administrative costs of
2 implementing the provisions of the act that added this section. If
3 this additional fee is assessed, it shall only apply until June 30,
4 2017.

5 ~~(m)~~

6 (n) This section shall become operative on January 1, 2015, or
7 on the date that the director executes a declaration pursuant to
8 Section 12801.11, whichever is sooner.

9 ~~(n)~~

10 (o) This section shall become inoperative on the effective date
11 of a final judicial determination made by any court of appellate
12 jurisdiction that any provision of the act that added this section,
13 or its application, either in whole or in part, is enjoined, found
14 unconstitutional, or held invalid for any reason. The department
15 shall post this information on its Internet Web site.