

AMENDED IN ASSEMBLY APRIL 24, 2014
AMENDED IN ASSEMBLY FEBRUARY 25, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1660

Introduced by Assembly Member Alejo

February 12, 2014

An act to amend ~~Section~~ *Sections 12801 and 12801.9* of the Vehicle Code, relating to driver's licenses.

LEGISLATIVE COUNSEL'S DIGEST

AB 1660, as amended, 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 *provide that information provided in order to obtain a driver's license as described above is private and confidential, shall not be disclosed by a government entity or employer, as specified, and is not subject to disclosure under the California Public Records Act. The bill would additionally make it a violation of the Fair Housing and Employment Act to discriminate against an individual because he or she holds or presents a driver's license issued under these provisions. The 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 provide that an action taken by an employer to comply with any requirement or prohibition under the federal Immigration and Nationality Act is not a violation of law. *The bill would make additional conforming changes and would state findings and declarations of the Legislature relative to licenses issued under these provisions.*

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

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

1 SECTION 1. *The Legislature finds and declares that the identity*
 2 *of a person seeking a driver’s license under Section 12801.9 of*
 3 *the Vehicle Code, and any information provided by an applicant*
 4 *for a driver’s license, should not be released to the public or used*
 5 *for any other purpose because the information is sensitive in nature*
 6 *and similar driver’s license information is exempt from disclosure*
 7 *under existing law.*

8 SEC. 2. *Section 12801 of the Vehicle Code, as added by Section*
 9 *10 of Chapter 524 of the Statutes of 2013, is amended to read:*

10 12801. (a) Except as provided in subdivisions (b) and (c) and
 11 Section 12801.9, the department shall require an application for a
 12 driver’s license to contain the applicant’s social security account
 13 number and any other number or identifier determined to be
 14 appropriate by the department.

15 (b) An applicant who provides satisfactory proof that his or her
 16 presence in the United States is authorized under federal law, but
 17 who is not eligible for a social security account number, is eligible
 18 to receive an original driver’s license if he or she meets all other
 19 qualifications for licensure.

20 (c) (1) An applicant who is unable to provide satisfactory proof
 21 that his or her presence in the United States is authorized under
 22 federal law may sign an affidavit attesting that he or she is both
 23 ineligible for a social security account number and unable to submit
 24 satisfactory proof that his or her presence in the United States is
 25 authorized under federal law. ~~This Notwithstanding subdivision~~
 26 ~~(j) of Section 12801.9, this affidavit is not a public record. private~~
 27 ~~and confidential, and is exempt from disclosure under the~~

1 *California Public Records Act (Chapter 3.5 (commencing with*
2 *Section 6250) of Division 7 of Title 1 of the Government Code).*
3 *The affidavit shall not be disclosed by the department, and shall*
4 *be used only for the purpose of processing a driver's license*
5 *application.*

6 (2) The submission of this affidavit shall be accepted by the
7 department in lieu of a social security account number.

8 (3) This subdivision shall not apply to applications for a
9 commercial driver's license. The department shall require all
10 applications for a commercial driver's license to include the
11 applicant's social security account number.

12 (4) Nothing in this section shall be used to consider an
13 individual's citizenship or immigration status as a basis for a
14 criminal investigation, arrest, or detention.

15 (d) The department shall not complete an application for a
16 driver's license unless the applicant is in compliance with the
17 requirements of subdivision (a), (b) or (c).

18 (e) Notwithstanding any other law, the social security account
19 number collected on a driver's license application shall not be
20 displayed on the driver's license including, but not limited to,
21 inclusion on a magnetic tape or strip used to store data on the
22 license.

23 (f) This section shall become operative on January 1, 2015, or
24 on the date that the director executes a declaration pursuant to
25 Section 12801.11, whichever is sooner.

26 (g) This section shall become inoperative on the effective date
27 of a final judicial determination made by any court of appellate
28 jurisdiction that any provision of the act that added this section,
29 or its application, either in whole or in part, is enjoined, found
30 unconstitutional, or held invalid for any reason. The department
31 shall post this information on its Internet Web site.

32 *SEC. 3. Section 12801 of the Vehicle Code, as added by Section*
33 *11 of Chapter 524 of the Statutes of 2013, is amended to read:*

34 12801. (a) Notwithstanding any other law, the department
35 shall require an application for a driver's license to contain the
36 applicant's social security account number and any other number
37 or identifier determined to be appropriate by the department.
38 *Notwithstanding subdivision (j) of Section 12801.9, the information*
39 *provided in the application is exempt from disclosure under the*
40 *California Public Records Act (Chapter 3.5 (commencing with*

1 *Section 6250) of Division 7 of Title 1 of the Government Code).*
2 *The information in the application shall not be disclosed by the*
3 *department, and shall be used only for the purpose of processing*
4 *a driver's license application.*

5 (b) Notwithstanding subdivision (a), an applicant who provides
6 satisfactory proof that his or her presence in the United States is
7 authorized under federal law, but who is not eligible for a social
8 security account number, is eligible to receive an original driver's
9 license if he or she meets all other qualifications for licensure.

10 (c) Notwithstanding any other law, the social security account
11 number collected on a driver's license application shall not be
12 displayed on the driver's license including, but not limited to,
13 inclusion on a magnetic tape or strip used to store data on the
14 license.

15 (d) This section shall become operative on the effective date of
16 a final judicial determination made by any court of appellate
17 jurisdiction that any provision of the act that added this section,
18 or its application, either in whole or in part, is enjoined, found
19 unconstitutional, or held invalid for any reason. The department
20 shall post this information on its Internet Web site.

21 **SECTION 4.**

22 *SEC. 4.* Section 12801.9 of the Vehicle Code is amended to
23 read:

24 12801.9. (a) Notwithstanding Section 12801.5, the department
25 shall issue an original driver's license to a person who is unable
26 to submit satisfactory proof that the applicant's presence in the
27 United States is authorized under federal law if he or she meets
28 all other qualifications for licensure and provides satisfactory proof
29 to the department of his or her identity and California residency.

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

38 (c) Emergency regulations adopted for purposes of establishing
39 the documents acceptable to prove identity and residency pursuant
40 to subdivision (b) shall be promulgated by the department in

1 consultation with appropriate interested parties, in accordance with
2 the Administrative Procedure Act (Chapter 3.5 (commencing with
3 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
4 Code), including law enforcement representatives, immigrant rights
5 representatives, labor representatives, and other stakeholders,
6 which may include, but are not limited to, the California Highway
7 Patrol, the California State Sheriffs' Association, and the California
8 Police Chiefs Association. The department shall accept various
9 types of documentation for this purpose, including, but not limited
10 to, the following documents:

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

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

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

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

22 (A) A marriage license or divorce certificate.

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

25 (C) A foreign driver's license.

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

28 (6) An official school or college transcript that includes the
29 applicant's date of birth, or a foreign school record that is sealed
30 and includes a photograph of the applicant at the age the record
31 was issued.

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

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

35 (9) A property tax bill or statement issued within the previous
36 12 months.

37 (10) An income tax return.

38 (d) (1) A license issued pursuant to this section, including a
39 temporary license issued pursuant to Section 12506, shall include
40 a recognizable feature on the front of the card, such as the letters

1 “DP” instead of, and in the same font size as, the letters “DL,”
2 with no other distinguishable feature.

3 (2) The license shall bear the following notice: “This card is
4 not acceptable for official federal purposes. This license is issued
5 only as a license to drive a motor vehicle. It does not establish
6 eligibility for employment, voter registration, or public benefits.”

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

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

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

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

25 (h) ~~(1) It shall be a violation of law, including, but not limited~~
26 ~~to, is a violation of the Unruh Civil Rights Act (Section 51 of the~~
27 ~~Civil Code), for a business establishment to discriminate against~~
28 ~~an individual a person because he or she holds or presents a license~~
29 ~~issued under this section. Notwithstanding the foregoing, any action~~
30 ~~taken by an employer to comply with any requirement or~~
31 ~~prohibition under the federal Immigration and Nationality Act (8~~
32 ~~U.S.C. Sec. 1101) is not a violation of law. This section does not~~
33 ~~conflict with the employment authorization verification~~
34 ~~requirements of the Immigration and Nationality Act.~~

35 (2) *It is a violation of the California Fair Employment and*
36 *Housing Act (Part 2.8 (commencing with Section 12900) of*
37 *Division 3 of Title 2 of the Government Code, for an employer or*
38 *other covered person or entity pursuant to Section 12940 of the*
39 *Government Code), to discriminate against a person because the*
40 *person holds or presents a driver’s license issued pursuant to this*

1 *section, or for an employer or other covered entity to require a*
2 *person to present a driver's license, unless possessing a driver's*
3 *license is required by law or is necessary to perform the duties of*
4 *the position.*

5 (3) *Notwithstanding paragraph (2), nothing in this section shall*
6 *be construed to alter an employer's rights or obligations under*
7 *Section 1324a of Title 8 of the United States Code regarding*
8 *obtaining documentation evidencing identity and authorization*
9 *for employment. An action taken by an employer that is required*
10 *by the federal Immigration and Nationality Act (8 U.S.C. Sec.*
11 *1324a) is not a violation of law.*

12 (4) *Driver's license information obtained by an employer shall*
13 *be treated as private and confidential, is exempt from disclosure*
14 *under the California Public Records Act (Chapter 3.5 (commencing*
15 *with Section 6250) of Division 7 of Title 1 of the Government*
16 *Code), and shall not be disclosed to any unauthorized person or*
17 *used for any purpose other than to establish identity and*
18 *authorization to drive.*

19 (i) ~~It is a violation of Section 11135 of the Government Code~~
20 ~~for a state or local governmental authority, or agent of a~~
21 ~~governmental authority, or person acting on behalf of a state or~~
22 ~~local governmental authority, shall not or a program or activity~~
23 ~~that is funded directly or receives financial assistance from the~~
24 ~~state to discriminate against an individual because he or she holds~~
25 ~~or presents a license issued pursuant to this section.~~

26 (j) ~~Information collected pursuant to this section is not a public~~
27 ~~record by the department is private and confidential, and is exempt~~
28 ~~from disclosure under the California Public Records Act (Chapter~~
29 ~~3.5 (commencing with Section 6250) of Division 7 of Title 1 of the~~
30 ~~Government Code), and shall not be disclosed by the department~~
31 ~~or used for any purpose other than processing a driver's license~~
32 ~~application, except as required by law Section 1653.5.~~

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

36 (k) *A driver's license issued pursuant to this section shall not*
37 *be used as evidence of the holder's or presenter's citizenship or*
38 *immigration status, and shall not be used as a basis for a criminal*
39 *investigation, arrest, or detention in circumstances where a person*

1 *whose driver's license was not issued under this section would not*
2 *be criminally investigated, arrested, or detained.*

3 (l) On or before January 1, 2018, the California Research Bureau
4 shall compile and submit to the Legislature and the Governor a
5 report of any violations of subdivisions (h) and (k). Information
6 pertaining to any specific individual shall not be provided in the
7 report.

8 (m) In addition to the fees required by Section 14900, a person
9 applying for an original license pursuant to this section may be
10 required to pay an additional fee determined by the department
11 that is sufficient to offset the reasonable administrative costs of
12 implementing the provisions of the act that added this section. If
13 this additional fee is assessed, it shall only apply until June 30,
14 2017.

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

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