

AN ACT

ENTITLED, An Act to revise certain driver licensing provisions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 32-12-1 be amended to read as follows:

32-12-1. For purposes of this chapter, terms are defined in § 32-14-1. Terms used in this chapter mean:

- (1) "Driver license," a document issued by a state or jurisdiction to an individual that authorizes the individual to drive a motor vehicle, including an operator's license, motorcycle operator's license, restricted minor's permit, motorcycle restricted minor's permit, instruction permit, motorcycle instruction permit, and temporary permit;
- (2) "Operator's license," any document issued by a state or jurisdiction to an individual that bestows full driving privileges upon the individual; and
- (3) "Principal residence," the location where a person currently resides even if at a temporary address.

Section 2. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as follows:

For the purposes of this chapter, the term, lawful status, means that a person is a citizen or national of the United States or is an alien who:

- (1) Is lawfully admitted for permanent or temporary residence in the United States;
- (2) Has conditional permanent resident status in the United States;
- (3) Has an approved application for asylum in the United States or has entered into the United States in refugee status;
- (4) Has a valid nonimmigrant status in the United States;
- (5) Has a pending application for asylum in the United States;

- (6) Has a pending or approved application for temporary protected status (TPS) in the United States;
- (7) Has approved deferred action status; or
- (8) Has a pending application for lawful permanent residence (LPR) or conditional permanent resident status.

Section 3. That § 32-12-3.1 be amended to read as follows:

32-12-3.1. Any applicant as provided for in this chapter shall, on making application for an operator's license, motorcycle operator's license, restricted minor's permit, motorcycle restricted minor's permit, instruction permit, motorcycle instruction permit, or nondriver identification card, present to the examiner one of the following documents in order to establish identity and date of birth:

- (1) A certified copy of a United States birth certificate filed with the state office of vital records or equivalent agency;
- (2) A consular report of birth abroad (United States Department of State form FS-240, DS-1350, or FS-545);
- (3) A valid, unexpired permanent resident card (form I-551 issued by the United States Department of Homeland Security or Immigration and Naturalization Services);
- (4) An unexpired employment authorization document issued by the United States Department of Homeland Security (form I-766 or I-688B);
- (5) An unexpired foreign passport with a valid, unexpired United States visa affixed accompanied by the approved I-94 form documenting the applicant's most recent entrance into the United States;
- (6) A certificate of naturalization issued by the United States Department of Homeland Security (form N-550 or N-570);

- (7) A certificate of citizenship form N-560 or N-561 issued by the United States Department of Homeland Security;
- (8) A valid driver license issued by this state or another state that meets the requirements of 6 C.F.R. Part 37 as amended through January 1, 2009, and is acceptable by federal agencies for official purposes;
- (9) Any other document designated by the Department of Homeland Security by publication in the Federal Register that establishes identity and date of birth; or
- (10) A valid, unexpired United States passport.

For all documentation offered by the applicant to provide evidence of identity, date of birth, social security number or nonwork authorized status, address of principal residence, and lawful status, the department shall make a copy of the documentation and shall retain the copy for ten years. All documents retained under this section are confidential. The examiner may, as part of a documented exceptions process, accept other evidence of identity and date of birth of any applicant and lawful status of any United States citizen only if the examiner is satisfied that the applicant cannot, for good reason beyond the applicant's control, produce such primary documents. The examiner shall record the acceptance of any alternative document under the exceptions process. The Department of Public Safety may not require new evidence of birth at the time an application is made by a person holding an operator's license, motorcycle operator's license, restricted minor's permit, motorcycle restricted minor's permit, instruction permit, motorcycle instruction permit, or nondriver identification card, if that person's driver license or nondriver identification card meets the requirements of 6 C.F.R. Part 37 as amended through January 1, 2009, is acceptable by federal agencies for official purposes, and is turned in to the department with the application. Any person who obtains a driver license or nondriver identification card pursuant to this section fraudulently or by use of a fraudulently obtained document is guilty of a Class 1 misdemeanor.

Section 4. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as follows:

A license issued to an applicant who is not a citizen or a legal permanent resident of the United States expires coterminously with the applicant's authorized duration of stay or the otherwise applicable expiration date of the license issued under the provisions of this chapter, whichever occurs first.

Section 5. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as follows:

Any applicant under the provisions of this chapter shall, on making application for an operator's license, motorcycle operator's license, restricted minor's permit, motorcycle restricted minor's permit, instruction permit, motorcycle instruction permit, or nondriver identification card, present to the examiner evidence of lawful status in the United States. If the applicant has presented one of the identity documents listed under subdivision 32-12-3.1(1), (2), (3), (4), (5), (6), (7), or (10), the document is satisfactory evidence of lawful status. If the applicant presents the identity documents listed under subdivision 32-12-3.1(8) or (9), the document is not satisfactory evidence of lawful status. Such applicant shall also present a second document from subdivision 32-12-3.1(1), (2), (3), (4), (5), (6), (7), or (10) or documentation issued by the United States Department of Homeland Security or other federal agencies demonstrating lawful status as determined by the United States Citizenship and Immigration Services through the systematic alien verification for entitlements system or alternate method approved by the United States Department of Homeland Security.

Section 6. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as follows:

Any applicant under the provisions of this chapter who has been assigned a social security account number shall, on making application for an operator's license, motorcycle operator's license,

restricted minor's permit, motorcycle restricted minor's permit, instruction permit, motorcycle instruction permit, or nondriver identification card, present to the examiner a Social Security Administration account number card. If a Social Security Administration account number card is not available, the applicant may present any of the following documents bearing the applicant's social security number:

- (1) A W-2 form;
- (2) A SSA-1099 form;
- (3) A non-SSA-1099 form; or
- (4) A pay stub with the applicant's name and social security number.

Any applicant lawfully present in a nonimmigrant status who does not present evidence of a social security account number shall present to the examiner documentation which demonstrates a nonwork authorized status.

Section 7. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as follows:

Any applicant under the provisions of this chapter shall, on making application for an operator's license, motorcycle operator's license, restricted minor's permit, motorcycle restricted minor's permit, instruction permit, motorcycle instruction permit, or nondriver identification card, present to the examiner at least two documents containing the applicant's name and address of principal residence in order to establish the applicant's address of principal residence.

Section 8. That § 32-12-17.2 be amended to read as follows:

32-12-17.2. The Department of Public Safety may issue upon application a nondriver identification card, similar in form but distinguishable in color from driver licenses, to any resident of South Dakota. Each applicant for a nondriver identification card shall, as part of the application, present to the department a certified copy of a certificate of birth or another form of evidence of date

of birth and identity as allowed by § 32-12-3.1. The fee for an original or reissued nondriver identification card is the same as prescribed for an original driver license in § 32-12-16. Each nondriver identification card expires on the holder's birthday in the fifth year following the issuance of the nondriver identification card, or on the date of expiration of the applicant's authorized stay in the United States as determined by the systematic alien verification for entitlements system or alternate method approved by the United States Department of Homeland Security or, if there is no expiration date, for a period no longer than one year from date of issuance, whichever occurs first. Each nondriver identification card is renewable one hundred eighty days before its expiration upon application and payment of the required fee. Any nondriver identification card renewed before its expiration expires five years after the holder's ensuing birthday, or on the date of expiration of the applicant's authorized stay in the United States as determined by the systematic alien verification for entitlements system or alternate method approved by the United States Department of Homeland Security or, if there is no expiration date, for a period no longer than one year from date of issuance, whichever occurs first. The nondriver identification card shall bear an indication if the holder has a living will pursuant to chapter 34-12D or a durable power of attorney for health care pursuant to chapter 59-7. Any nondriver identification card renewed during the thirty-day period following the date of expiration expires five years from the holder's previous birthday, or on the date of expiration of the applicant's authorized stay in the United States as determined by the systematic alien verification for entitlements system or alternate method approved by the United States Department of Homeland Security or, if there is no expiration date, for a period no longer than one year from date of issuance, whichever occurs first.

Section 9. That § 32-12-17.10 be amended to read as follows:

32-12-17.10. An operator's license, motorcycle operator's license, restricted minor's permit, motorcycle restricted minor's permit, instruction permit, and motorcycle instruction permit shall bear

a distinguishing number assigned to the licensee, the full legal name or any name lawfully taken, date of birth, gender, principal residence address, an indication if the licensee is a donor pursuant to chapter 34-26, an indication if the licensee has a living will pursuant to chapter 34-12D or a durable power of attorney for health care pursuant to chapter 59-7, a full facial digital photograph, a brief description of the licensee, the licensee's signature, security features designed to deter forgery and counterfeiting, to promote an adequate level of confidence in the authenticity of the cards, and to facilitate detection of fraudulent cards, the issue date of the license, the expiration date of the license, an indication that the license is temporary or limited term if the holder has temporary lawful status in the United States, the name of this state, and a security marking approved by the United States Department of Homeland Security reflecting the level of compliance with 6 C.F.R. Part 37 as amended through January 1, 2009. The department shall indicate upon each license the general class of vehicles that the licensee may drive. The back of the license shall contain a barcode. The department shall include in the barcode the name of this state, the information printed on the license, the card design revision date indicating the most recent change or modification to the visible format of the card, and an indicator if the license is temporary or limited term. No barcode, or other means by which information may be retrieved electronically, may contain the licensee's social security number.

Section 10. That § 32-12-42 be amended to read as follows:

32-12-42. Each operator's license, motorcycle operator's license, restricted minor's permit, or motorcycle restricted minor's permit expires on the licensee's birthday in the fifth year following the issuance of the license, or on the date of expiration of the applicant's authorized stay in the United States as determined by the systematic alien verification for entitlements system or alternate method approved by the United States Department of Homeland Security or, if there is no expiration date, for a period no longer than one year from date of issuance, whichever occurs first. Each operator's

license, motorcycle operator's license, restricted minor's permit, or motorcycle restricted minor's permit is renewable one hundred eighty days before its expiration upon application and payment of the required fee. Any license renewed before its expiration expires five years after the licensee's ensuing birthday, or on the date of expiration of the applicant's authorized stay in the United States as determined by the systematic alien verification for entitlements system or alternate method approved by the United States Department of Homeland Security or, if there is no expiration date, for a period no longer than one year from date of issuance, whichever occurs first. However, the department shall waive the knowledge and driving tests for renewal, if the licensee applies and makes payment of the required fee within thirty days following the expiration date. If the licensee applies and makes payment of the required fee thirty-one or more days after the expiration date of the license, the licensee shall take the knowledge test as required by § 32-12-4. Any license renewed during the thirty-day period following the date of expiration expires five years from the licensee's previous birthday, or on the date of expiration of the applicant's authorized stay in the United States as determined by the systematic alien verification for entitlements system or alternate method approved by the United States Department of Homeland Security or, if there is no expiration date, for a period no longer than one year from date of issuance, whichever occurs first.

Section 11. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as follows:

A person may hold a South Dakota driver license and a South Dakota nondriver identification card. However, the person can only have one driver license or nondriver identification card that is acceptable by federal agencies for federal purposes. If a person holds both a driver license and a nondriver identification card, one of the documents shall be clearly marked as not acceptable by federal agencies for federal purposes.

Section 12. That chapter 32-12A be amended by adding thereto a NEW SECTION to read as

follows:

Any applicant under the provisions of this chapter shall, on making application for a commercial driver license, present to the examiner at least two documents containing the applicant's name and address of principal residence as defined in § 32-12-1 in order to establish the applicant's address of principal residence.

Section 13. That § 32-12A-20 be amended to read as follows:

32-12A-20. The commercial driver license shall be marked "Commercial Driver License," shall be, to the maximum extent practicable, tamper proof, and shall include the following information:

- (1) The full legal name, address of principal residence, and mailing address of the licensee;
- (2) A full facial digital photograph of the licensee;
- (3) A distinguishing number assigned to the licensee;
- (4) A physical description of the licensee, including sex, height, weight, and eye color;
- (5) Date of birth;
- (6) An indication if the licensee is a donor pursuant to chapter 34-26;
- (7) The licensee's signature;
- (8) The class of commercial motor vehicle or vehicles which the licensee is authorized to operate, including any endorsements or restrictions;
- (9) The name of this state;
- (10) The dates between which the commercial driver license is valid;
- (11) A barcode on the back of the license containing the name of this state, the information printed on the license, and the card design revision date indicating the most recent change or modification to the visible format of the card; and
- (12) A security marking approved by the United States Department of Homeland Security reflecting the level of compliance with 6 C.F.R. Part 37 as amended through January 1,

2009.

Section 14. That § 32-12A-30 be amended to read as follows:

32-12A-30. A commercial driver license issued pursuant to this chapter, expires on the licensee's birthday in the fifth year following the issuance of the license. Any nonresident commercial driver license expires on the date of expiration of the applicant's authorized stay in the United States as determined by the systematic alien verification for entitlements system or alternate method approved by the United States Department of Homeland Security or, if there is no expiration date, for a period no longer than one year from date of issuance. However, no nonresident commercial driver license may expire on a date later than the licensee's birthday in the fifth year following the issuance of the license.

Section 15. This Act is effective December 31, 2009.

An Act to revise certain driver licensing provisions.

I certify that the attached Act
originated in the

SENATE as Bill No. 17

Secretary of the Senate

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 17

File No. _____

Chapter No. _____

Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State