
SENATE BILL 5335

State of Washington

62nd Legislature

2011 Regular Session

By Senators Stevens, Benton, Carrell, Becker, Morton, Delvin, Swecker, Ericksen, and Schoesler

Read first time 01/20/11. Referred to Committee on Transportation.

1 AN ACT Relating to the verification that applicants for driver's
2 licenses, permits, and identicards are lawfully within the United
3 States; amending RCW 46.20.031, 46.20.055, 46.20.070, 46.20.117,
4 46.20.181, and 46.20.207; and adding new sections to chapter 46.20 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 46.20.031 and 2002 c 279 s 3 are each amended to read
7 as follows:

8 The department shall not issue a driver's license to a person:

9 (1) Who is under the age of sixteen years;

10 (2) Whose driving privilege has been withheld unless and until the
11 department may authorize the driving privilege under RCW 46.20.311;

12 (3) Who has been classified as an alcoholic, drug addict, alcohol
13 abuser, or drug abuser by a program approved by the department of
14 social and health services. The department may, however, issue a
15 license if the person:

16 (a) Has been granted a deferred prosecution under chapter 10.05
17 RCW; or

18 (b) Is satisfactorily participating in or has successfully

1 completed an alcohol or drug abuse treatment program approved by the
2 department of social and health services and has established control of
3 his or her alcohol or drug abuse problem;

4 (4) Who has previously been adjudged to be mentally ill or insane,
5 or to be incompetent due to a mental disability or disease. The
6 department shall, however, issue a license to the person if he or she
7 otherwise qualifies and:

8 (a) Has been restored to competency by the methods provided by law;
9 or

10 (b) The superior court finds the person able to operate a motor
11 vehicle with safety upon the highways during such incompetency;

12 (5) Who has not passed the driver's licensing examination required
13 by RCW 46.20.120 and 46.20.305, if applicable;

14 (6) Who is required under the laws of this state to deposit proof
15 of financial responsibility and who has not deposited such proof;

16 (7) Who is unable to safely operate a motor vehicle upon the
17 highways due to a physical or mental disability. The department's
18 conclusion that a person is barred from licensing under this subsection
19 must be reasonable and be based upon good and substantial evidence.
20 This determination is subject to review by a court of competent
21 jurisdiction; or

22 (8) Who has not proven that he or she is lawfully within the United
23 States.

24 **Sec. 2.** RCW 46.20.055 and 2010 c 223 s 1 are each amended to read
25 as follows:

26 (1) **Driver's instruction permit.** The department may issue a
27 driver's instruction permit with or without a photograph to an
28 applicant who has successfully passed all parts of the examination
29 other than the driving test, provided the information required by RCW
30 46.20.091, has proven that he or she is lawfully within the United
31 States, paid a fee of twenty dollars, and meets the following
32 requirements:

33 (a) Is at least fifteen and one-half years of age; or

34 (b) Is at least fifteen years of age and:

35 (i) Has submitted a proper application; and

36 (ii) Is enrolled in a traffic safety education program offered,
37 approved, and accredited by the superintendent of public instruction or

1 offered by a driver training school licensed and inspected by the
2 department of licensing under chapter 46.82 RCW, that includes practice
3 driving.

4 (2) **Waiver of written examination for instruction permit.** The
5 department may waive the written examination, if, at the time of
6 application, an applicant is enrolled in:

7 (a) A traffic safety education course as defined by RCW
8 28A.220.020(2); or

9 (b) A course of instruction offered by a licensed driver training
10 school as defined by RCW 46.82.280.

11 The department may require proof of registration in such a course
12 as it deems necessary.

13 (3) **Effect of instruction permit.** A person holding a driver's
14 instruction permit may drive a motor vehicle, other than a motorcycle,
15 upon the public highways if:

16 (a) The person has immediate possession of the permit;

17 (b) The person is not using a wireless communications device,
18 unless the person is using the device to report illegal activity,
19 summon medical or other emergency help, or prevent injury to a person
20 or property; and

21 (c) An approved instructor, or a licensed driver with at least five
22 years of driving experience, occupies the seat beside the driver.

23 (4) **Term of instruction permit.** A driver's instruction permit is
24 valid for one year from the date of issue or until the date the
25 permittee's authorization to be within the United States expires,
26 whichever occurs first.

27 (a) The department may issue one additional (~~one-year~~) permit,
28 valid for a like period.

29 (b) The department may issue a third driver's permit if it finds
30 after an investigation that the permittee is diligently seeking to
31 improve driving proficiency.

32 (c) A person applying to renew an instruction permit must submit
33 the application to the department in person.

34 **Sec. 3.** RCW 46.20.070 and 2005 c 314 s 304 are each amended to
35 read as follows:

36 (1) **Agricultural driving permit authorized.** The director may issue

1 a juvenile agricultural driving permit to a person under the age of
2 eighteen years if:

3 (a) The application is signed by the applicant and the applicant's
4 father, mother, or legal guardian;

5 (b) The applicant has passed the driving examination required by
6 RCW 46.20.120;

7 (c) The department has investigated the applicant's need for the
8 permit and determined that the need justifies issuance;

9 (d) The department has determined the applicant is capable of
10 operating a motor vehicle without endangering himself or herself or
11 other persons and property; (~~and~~)

12 (e) The applicant proves that he or she is lawfully within the
13 United States; and

14 (f) The applicant has paid a fee of twenty dollars.

15 The permit must contain a photograph of the person.

16 (2) **Effect of agricultural driving permit.** (a) The permit
17 authorizes the holder to:

18 (i) Drive a motor vehicle on the public highways of this state in
19 connection with farm work. The holder may drive only within a
20 restricted farming locality described on the permit; and

21 (ii) Participate in the classroom portion of a traffic safety
22 education course authorized under RCW 28A.220.030 or the classroom
23 portion of a traffic safety education course offered by a driver
24 training school licensed and inspected by the department of licensing
25 under chapter 46.82 RCW offered in the community where the holder
26 resides.

27 (b) The director may transfer the permit from one farming locality
28 to another. A transfer is not a renewal of the permit.

29 (3) **Term and renewal of agricultural driving permit.** An
30 agricultural driving permit expires one year from the date of issue or
31 until the date the permittee's authorization to be within the United
32 States expires, whichever occurs first.

33 (a) A person under the age of eighteen who holds a permit may renew
34 the permit by paying a fee of fifteen dollars.

35 (b) A person applying to renew an agricultural driving permit must
36 submit the application to the department in person.

37 (c) An agricultural driving permit is invalidated when a permittee

1 attains age eighteen. In order to drive a motor vehicle on a highway
2 he or she must obtain a motor vehicle driver's license under this
3 chapter.

4 (4) **Suspension, revocation, or cancellation.** The director has sole
5 discretion to suspend, revoke, or cancel a juvenile agricultural
6 driving permit if:

7 (a) The permittee has been found to have committed an offense that
8 requires mandatory suspension or revocation of a driver's license;
9 (~~or~~)

10 (b) The department has determined that the permittee's
11 authorization to be within the United States has expired or has been
12 withdrawn; or

13 (c) The director is satisfied that the permittee has violated the
14 permit's restrictions.

15 **Sec. 4.** RCW 46.20.117 and 2005 c 314 s 305 are each amended to
16 read as follows:

17 (1) **Issuance.** The department shall issue an identicard, containing
18 a picture, if the applicant:

19 (a) Does not hold a valid Washington driver's license;
20 (b) Proves his or her identity as required by RCW 46.20.035;
21 (~~and~~)

22 (c) Proves that he or she is lawfully within the United States; and

23 (d) Pays the required fee. The fee is twenty dollars unless an
24 applicant is a recipient of continuing public assistance grants under
25 Title 74 RCW, who is referred in writing by the secretary of social and
26 health services. For those persons the fee must be the actual cost of
27 production of the identicard.

28 (2) **Design and term.** The identicard must:

29 (a) Be distinctly designed so that it will not be confused with the
30 official driver's license; and

31 (b) Expire on the fifth anniversary of the applicant's birthdate
32 after issuance or on the date the applicant's authorization to be
33 within the United States expires, whichever occurs first.

34 (3) **Renewal.** An application for identicard renewal may be
35 submitted by means of:

36 (a) Personal appearance before the department; or

1 (b) Mail or electronic commerce, if permitted by rule of the
2 department and if the applicant did not renew his or her identicard by
3 mail or by electronic commerce when it last expired. However, the
4 department may accept an application for renewal of an identicard
5 submitted by means of mail or electronic commerce only if specific
6 authority and funding is provided for this purpose by June 30, 2004, in
7 the omnibus transportation appropriations act.

8 An identicard may not be renewed by mail or by electronic commerce
9 unless the renewal issued by the department includes a photograph of
10 the identicard holder.

11 (4) **Cancellation.** The department may cancel an identicard if:

12 (a) The holder of the identicard used the card or allowed others to
13 use the card in violation of RCW 46.20.0921; or

14 (b) The department has determined that the holder's authorization
15 to be within the United States has expired or has been withdrawn.

16 **Sec. 5.** RCW 46.20.181 and 1999 c 308 s 3 are each amended to read
17 as follows:

18 (1) Except as provided in subsection (4) of this section, every
19 driver's license expires on the fifth anniversary of the licensee's
20 birthdate following the issuance of the license or on the date the
21 licensee's authorization to be within the United States expires,
22 whichever occurs first.

23 (2) A person may renew his or her license on or before the
24 expiration date by submitting an application as prescribed by the
25 department and paying a fee of twenty-five dollars. This fee includes
26 the fee for the required photograph.

27 (3) A person renewing his or her driver's license more than sixty
28 days after the license has expired shall pay a penalty fee of ten
29 dollars in addition to the renewal fee, unless his or her license
30 expired when:

31 (a) The person was outside the state and he or she renews the
32 license within sixty days after returning to this state; or

33 (b) The person was incapacitated and he or she renews the license
34 within sixty days after the termination of the incapacity.

35 (4) During the period from July 1, 2000, to July 1, 2006, the
36 department may issue or renew a driver's license for a period other
37 than five years, or may extend by mail a license that has already been

1 issued, in order to evenly distribute, as nearly as possible, the
2 yearly renewal rate of licensed drivers. The fee for a driver's
3 license issued or renewed for a period other than five years, or that
4 has been extended by mail, is five dollars for each year that the
5 license is issued, renewed, or extended. The department may adopt any
6 rules as are necessary to carry out this subsection.

7 **Sec. 6.** RCW 46.20.207 and 1993 c 501 s 3 are each amended to read
8 as follows:

9 (1) The department is authorized to cancel any driver's license or
10 permit upon determining that the licensee or permittee was not entitled
11 to the issuance of the license or permit, or that the licensee or
12 permittee failed to give the required or correct information in his or
13 her application, or that the licensee or permittee is incompetent to
14 drive a motor vehicle for any of the reasons under RCW 46.20.031 (4)
15 and (7), or that the licensee's or permittee's authorization to be
16 within the United States has expired or has been withdrawn.

17 (2) Upon such cancellation, the licensee or permittee must
18 surrender the license or permit so canceled to the department.

19 NEW SECTION. **Sec. 7.** A new section is added to chapter 46.20 RCW
20 to read as follows:

21 The department may adjust the term of a driver's license, permit,
22 or identicard that has been issued to expire on the expiration date of
23 an applicant's authorization to be within the United States upon
24 receiving satisfactory proof that the applicant's presence in the
25 United States has been reauthorized or extended. The expiration date
26 of a driver's license, permit, or identicard may be adjusted under this
27 section up to the date the applicant's authorization to be within the
28 United States has been extended, or up to the full term for which the
29 driver's license, permit, or identicard could originally have been
30 issued, whichever occurs first. There is no additional fee if the
31 expiration date of a driver's license, permit, or identicard is
32 adjusted under this section.

33 NEW SECTION. **Sec. 8.** A new section is added to chapter 46.20 RCW
34 to read as follows:

35 The department may adopt rules to establish procedures for: (1)

1 Verifying that a driver's license, permit, or identicard applicant's
2 presence in the United States is authorized under federal law,
3 including appropriate documentation of that status; (2) the issuance of
4 temporary drivers' licenses or permits pending the verification of
5 status; and (3) appeals hearings from denials and cancellations of
6 drivers' licenses, permits, or identicards based on the requirement
7 that a licensee, permittee, or identicard holder be lawfully within the
8 United States.

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