CHAPTER 13--H.F.No. 4

An act relating to transportation; modifying requirements for a noncompliant driver's license or Minnesota identification card and making related changes, including on eligibility, proof of lawful presence, primary and secondary documentation, and data practices; making technical changes; appropriating money; amending Minnesota Statutes 2022, sections 13.6905, by adding a subdivision; 168.327, subdivision 6; 171.04, subdivision 5; 171.06, subdivisions 1, 3, by adding subdivisions; 171.07, subdivisions 1, 3; 171.12, subdivisions 7, 7a, 7b, 9, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 171; repealing Minnesota Statutes 2022, section 171.015, subdivision 7.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

DRIVER'S LICENSES AND IDENTIFICATION CARDS

Section 1. Minnesota Statutes 2022, section 171.04, subdivision 5, is amended to read:

Subd. 5. **Temporary lawful admission.** The commissioner is prohibited from issuing a driver's license or Minnesota identification card to an applicant ~~whose~~ who has a lawful temporary admission period, as demonstrated under section 171.06, subdivision 3, paragraph (b), clause (2), that expires within 30 days of the date of the application.

Sec. 2. Minnesota Statutes 2022, section 171.06, subdivision 1, is amended to read:

Subdivision 1. **Application format and requirements.** Every application for a Minnesota identification card, including an enhanced identification card, or for a driver's license, including an instruction permit, a provisional license, a noncompliant driver's license, a REAL ID driver's license, and an enhanced driver's license, must be made in a format approved by the department. Every application must be accompanied by payment of the proper fee. All applicants must sign the application and declare, under penalty of perjury, that the information and documentation presented in the application is true and correct. All applications requiring evidence of legal presence in the United States or United States citizenship must be signed in the presence of the person authorized to accept the application, or the signature on the application may be verified by a notary public.

Sec. 3. Minnesota Statutes 2022, section 171.06, subdivision 3, is amended to read:

Subd. 3. **Contents of application; other information.** (a) An application must:

(1) state the full name, date of birth, sex, and either (i) the residence address of the applicant, or (ii) designated address under section 5B.05;

(2) as may be required by the commissioner, contain a description of the applicant and any other facts pertaining to the applicant, the applicant's driving privileges, and the applicant's ability to operate a motor vehicle with safety;

(3) state:

(i) the applicant's Social Security number; or

(ii) if the applicant does not have a Social Security number and is applying for a Minnesota identification card, instruction permit, or class D provisional or driver's license, that the applicant ~~certifies that the applicant is not eligible for~~ elects not to specify a Social Security number;

(4) contain a notification to the applicant of the availability of a living will/health care directive designation on the license under section 171.07, subdivision 7; and

(5) include a method for the applicant to:

(i) request a veteran designation on the license under section 171.07, subdivision 15, and the driving record under section 171.12, subdivision 5a;

(ii) indicate a desire to make an anatomical gift under subdivision 3b, paragraph (e);

(iii) as applicable, designate document retention as provided under section 171.12, subdivision 3c; and

(iv) indicate emergency contacts as provided under section 171.12, subdivision 5b.

(b) Applications must be accompanied by satisfactory evidence demonstrating:

(1) identity, date of birth, and any legal name change if applicable; and

(2) for driver's licenses and Minnesota identification cards that meet all requirements of the REAL ID Act:

(i) principal residence address in Minnesota, including application for a change of address, unless the applicant provides a designated address under section 5B.05;

(ii) Social Security number, or related documentation as applicable; and

(iii) lawful status, as defined in Code of Federal Regulations, title 6, section 37.3.

(c) An application for an enhanced driver's license or enhanced identification card must be accompanied by:

(1) satisfactory evidence demonstrating the applicant's full legal name and United States citizenship; and

(2) a photographic identity document.

(d) A valid Department of Corrections or Federal Bureau of Prisons identification card containing the applicant's full name, date of birth, and photograph issued to the applicant is an acceptable form of proof of identity in an application for an identification card, instruction permit, or driver's license as a secondary document for purposes of Minnesota Rules, part 7410.0400, and successor rules.

(e) An application form must not provide for identification of (1) the accompanying documents used by an applicant to demonstrate identity, or (2) except as provided in paragraphs (b) and (c), the applicant's citizenship, immigration status, or lawful presence in the United States. The commissioner and a driver's license agent must not inquire about an applicant's citizenship, immigration status, or lawful presence in the United States, except as provided in paragraphs (b) and (c).

Sec. 4. Minnesota Statutes 2022, section 171.06, is amended by adding a subdivision to read:

Subd. 8. **Noncompliant license or identification card; residence, lawful status.** (a) A person who applies for a noncompliant driver's license or identification card:

(1) must declare the applicant's residence address in Minnesota; and

(2) is not required to demonstrate United States citizenship or lawful presence in the United States.

(b) Minnesota Rules, part 7410.0410, or any successor rule, does not apply for a noncompliant driver's license or identification card.

(c) Nothing in this section allows the commissioner to issue a commercial driver's license to an applicant who does not demonstrate proof of citizenship or immigration status if required by federal law.

Sec. 5. Minnesota Statutes 2022, section 171.06, is amended by adding a subdivision to read:

Subd. 9. **Noncompliant license or identification card; general requirements.** (a) A document submitted under this subdivision or subdivision 10 or 11 must include the applicant's name and must be:

(1) issued to or provided for the applicant;

(2) legible and unaltered;

(3) an original or a copy certified by the issuing agency or by a court; and

(4) accompanied by a certified translation or an affidavit of translation into English, if the document is not in English.

(b) If the applicant's current legal name is different from the name on a document submitted under subdivision 10 or 11, the applicant must submit:

(1) a certified copy of a court order that specifies the applicant's name change;

(2) a certified copy of the applicant's certificate of marriage;

(3) a certified copy of a divorce decree or dissolution of marriage that specifies the applicant's name change, issued by a court; or

(4) similar documentation of a lawful change of name, as determined by the commissioner.

(c) A form issued by a federal agency that is specified under subdivisions 10 and 11 includes any subsequent form or version.

(d) The commissioner must establish a process to grant a waiver from the requirements under this subdivision and subdivisions 10 and 11.

(e) The same document must not be submitted as both a primary document under subdivision 10 and a secondary document under subdivision 11.

(f) For purposes of this subdivision and subdivisions 10 and 11:

(1) "court" includes a foreign court of competent jurisdiction; and

(2) "foreign" means a jurisdiction that is not, and is not within, the United States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, or a territory of the United States.

Sec. 6. Minnesota Statutes 2022, section 171.06, is amended by adding a subdivision to read:

Subd. 10. **Noncompliant license or identification card; primary documents.** (a) For purposes of a noncompliant driver's license or identification card, a primary document under Minnesota Rules, part 7410.0400, subpart 2, or successor rules, includes:

(1) an unexpired foreign passport or a foreign consular identification document that bears a photograph of the applicant;

(2) a certified birth certificate issued by a foreign jurisdiction; and

(3) a certified adoption certificate issued by a foreign jurisdiction that includes the applicant's name and date of birth.

(b) A document submitted under this subdivision must contain security features that make the document as impervious to alteration as is reasonably practicable in its design and quality of material and technology.

(c) Submission of more than one primary document is not required under this subdivision.

Sec. 7. Minnesota Statutes 2022, section 171.06, is amended by adding a subdivision to read:

Subd. 11. **Noncompliant license or identification card; secondary documents.** (a) For purposes of a noncompliant driver's license or identification card, a secondary document under Minnesota Rules, part 7410.0400, subpart 3, or successor rules, includes:

(1) a second primary document listed under subdivision 10, paragraph (a);

(2) a notice of action on or proof of submission of a completed Application for Asylum and for Withholding of Removal issued by the United States Department of Homeland Security, Form I-589;

(3) a Certificate of Eligibility for Nonimmigrant Student Status issued by the United States Department of Homeland Security, Form I-20;

(4) a Certificate of Eligibility for Exchange Visitor Status issued by the United States Department of State, Form DS-2019;

(5) a Deferred Action for Childhood Arrival approval notice issued by the United States Department of Homeland Security;

(6) an employment authorization document issued by the United States Department of Homeland Security, Form I-688, Form I-688A, Form I-688B, or Form I-766;

(7) a document issued by the Social Security Administration with an individual taxpayer identification number;

(8) a Social Security card;

(9) a Supplemental Security Income award statement issued no more than 12 months before the application;

(10) an unexpired Selective Service card;

(11) military orders that are still in effect at the time of application;

(12) a Minnesota unemployment insurance benefit statement issued no more than 90 days before the application;

(13) a valid identification card for health benefits or an assistance or social services program;

(14) a Minnesota vehicle certificate of title issued no more than 12 months before the application;

(15) mortgage documents for the applicant's residence;

(16) a filed property deed or title for the applicant's residence;

(17) a Minnesota property tax statement for the current or prior calendar year, or a proposed Minnesota property tax notice for the current year, that shows the applicant's principal residential address both on the mailing portion and the portion stating what property is being taxed;

(18) a certified copy of a divorce decree or dissolution of marriage that specifies the applicant's name or name change, issued by a court; and

(19) any of the following documents issued by a foreign jurisdiction:

(i) a driver's license that is current or has been expired for five years or less;

(ii) a high school, college, or university student identification card with a certified transcript from the school;

(iii) an official high school, college, or university transcript that includes the applicant's date of birth and a photograph of the applicant at the age the record was issued;

(iv) a federal electoral card issued on or after January 1, 1991, that contains the applicant's photograph;

(v) a certified copy of the applicant's certificate of marriage; and

(vi) a certified copy of a court order or judgment from a court of competent jurisdiction that contains the applicant's name and date of birth.

(b) Submission of more than one secondary document is not required under this subdivision.

Sec. 8. Minnesota Statutes 2022, section 171.07, subdivision 1, is amended to read:

Subdivision 1. **License; contents and design.** (a) Upon the payment of the required fee, the department shall issue to every qualifying applicant a license designating the type or class of vehicles the applicant is authorized to drive as applied for. This license must bear: (1) a distinguishing number assigned to the licensee; (2) the licensee's full name and date of birth; (3) either (i) the licensee's residence address, or (ii) the designated address under section 5B.05; (4) a description of the licensee in a manner as the commissioner deems necessary; (5) the usual signature of the licensee; and (6) designations and markings as provided in this section. No license is valid unless it bears the usual signature of the licensee. Every license must bear a colored photograph or an electronically produced image of the licensee.

(b) If the United States Postal Service will not deliver mail to the applicant's residence address as listed on the license, then the applicant shall provide verification from the United States Postal Service that mail

will not be delivered to the applicant's residence address and that mail will be delivered to a specified alternate mailing address. When an applicant provides an alternate mailing address under this subdivision, the commissioner shall use the alternate mailing address in lieu of the applicant's residence address for all notices and mailings to the applicant.

(c) Every license issued to an applicant under the age of 21 must be of a distinguishing color and plainly marked "Under-21."

(d) A license issued to an applicant age 65 or over must be plainly marked "senior" if requested by the applicant.

(e) Except for a noncompliant license, a license must bear a distinguishing indicator for compliance with requirements of the REAL ID Act.

(f) A noncompliant license must:

(1) be marked "not for federal identification" on the face and in the machine-readable portion; ~~and~~

(2) have a unique design or color indicator for purposes of the REAL ID Act; and

(3) bear no indicator or design that relates to the lawful presence or the citizenship of the license holder.

(g) A REAL ID compliant license issued to a person with temporary lawful status or admission period must be marked "temporary" on the face and in the machine-readable portion.

(h) A license must display the licensee's full name or no fewer than 39 characters of the name. Any necessary truncation must begin with the last character of the middle name and proceed through the second letter of the middle name, followed by the last character of the first name and proceeding through the second letter of the first name.

Sec. 9. Minnesota Statutes 2022, section 171.07, subdivision 3, is amended to read:

Subd. 3. **Identification card; content and design; fee.** (a) Upon payment of the required fee, the department shall issue to every qualifying applicant a Minnesota identification card. The department may not issue a Minnesota identification card to an individual who has a driver's license, other than a limited license. The department may not issue an enhanced identification card to an individual who is under 16 years of age, not a resident of this state, or not a citizen of the United States of America. The card must bear: (1) a distinguishing number assigned to the applicant; (2) a colored photograph or an electronically produced image of the applicant; (3) the applicant's full name and date of birth; (4) either (i) the licensee's residence address, or (ii) the designated address under section 5B.05; (5) a description of the applicant in the manner as the commissioner deems necessary; (6) the usual signature of the applicant; and (7) designations and markings provided under this section.

(b) If the United States Postal Service will not deliver mail to the applicant's residence address as listed on the Minnesota identification card, then the applicant shall provide verification from the United States Postal Service that mail will not be delivered to the applicant's residence address and that mail will be delivered to a specified alternate mailing address. When an applicant provides an alternate mailing address under this subdivision, the commissioner shall use the alternate mailing address in lieu of the applicant's residence address for all notices and mailings to the applicant.

(c) Each identification card issued to an applicant under the age of 21 must be of a distinguishing color and plainly marked "Under-21."

(d) Each Minnesota identification card must be plainly marked "Minnesota identification card - not a driver's license."

(e) Except for a noncompliant identification card, a Minnesota identification card must bear a distinguishing indicator for compliance with requirements of the REAL ID Act.

(f) A noncompliant identification card must:

(1) be marked "not for federal identification" on the face and in the machine-readable portion; ~~and~~

(2) have a unique design or color indicator for purposes of the REAL ID Act; and

(3) bear no indicator or design that relates to the lawful presence or the citizenship of the identification card holder.

(g) A REAL ID compliant Minnesota identification card issued to a person with temporary lawful status or admission period must be marked "temporary" on the face and in the machine-readable portion.

(h) A Minnesota identification card must display the cardholder's full name or no fewer than 39 characters of the name. Any necessary truncation must begin with the last character of the middle name and proceed through the second letter of the middle name, followed by the last character of the first name and proceeding through the second letter of the first name.

(i) The fee for a Minnesota identification card is 50 cents when issued to a person who is developmentally disabled, as defined in section 252A.02, subdivision 2; a physically disabled person, as defined in section 169.345, subdivision 2; or, a person with mental illness, as described in section 245.462, subdivision 20, paragraph (c).

Sec. 10. **[171.1205] RESTRICTIONS ON USE.**

A state agency or a political subdivision must not use the possession of a noncompliant driver's license or identification card as (1) evidence of a person's citizenship or lawful presence in the United States, or (2) the primary basis for investigation, detention, or arrest.

Sec. 11. **APPROPRIATION.**

$1,453,000 in fiscal year 2024 and $1,413,000 in fiscal year 2025 are appropriated from the vehicle services operating account in the special revenue fund to the commissioner of public safety to implement the requirements of this act. The base for the vehicle services activity is increased by $891,000 in each of fiscal years 2026 and 2027.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 12. **REPEALER.**

Minnesota Statutes 2022, section 171.015, subdivision 7, is repealed.

Sec. 13. **EFFECTIVE DATE.**

Unless provided otherwise, this act is effective October 1, 2023, for driver's license and Minnesota identification card application and issuance on or after that date.

ARTICLE 2

DATA PROTECTIONS

Section 1. Minnesota Statutes 2022, section 13.6905, is amended by adding a subdivision to read:

Subd. 36. **Noncompliant license or identification card; lawful status.** Data on certain noncompliant drivers' licenses or identification cards are governed by section 171.12, subdivision 11.

Sec. 2. Minnesota Statutes 2022, section 168.327, subdivision 6, is amended to read:

Subd. 6. **Review and audit of subscription services.** Each subscriber under subdivision 4 or 5a must annually engage an independent professional organization to audit its uses of data and its information technology security procedures, including: (1) the methods and practices employed in the processing and use of driver and vehicle services data; and (2) compliance with the certification required under section 171.12, subdivision 7b, paragraph (d). Within 30 days of the date of the audit report, each subscriber must submit each report to the legislative auditor and the commissioner.

Sec. 3. Minnesota Statutes 2022, section 171.12, subdivision 7, is amended to read:

Subd. 7. **Privacy of data.** (a) Data on individuals provided to obtain a driver's license or Minnesota identification card shall be treated as provided by United States Code, title 18, section 2721, as in effect on May 23, 2005, and shall be disclosed as required or permitted by that section. The commissioner shall disclose the data in bulk form upon request to an authorized recipient under United States Code, title 18, section 2721. For any disclosure of data on individuals related to a noncompliant driver's license or identification card, the commissioner must require a certification pursuant to subdivision 7b, paragraph (d).

(b) An applicant for a driver's license or a Minnesota identification card may consent, in writing, to the commissioner to disclose the applicant's personal information exempted by United States Code, title 18, section 2721, to any person who makes a request for the personal information. If the applicant so authorizes disclosures, the commissioner shall implement the request and the information may be used.

(c) If authorized by an applicant for a driver's license or a Minnesota identification card, as indicated in paragraph (b), the applicant's personal information may be used, rented, or sold solely for bulk distribution by organizations for business purposes, including surveys, marketing, or solicitation.

(d) An applicant for a driver's license, instruction permit, or Minnesota identification card may request that the applicant's residence address be classified as "private data on individuals," as defined in section 13.02, subdivision 12. The commissioner shall grant the classification on receipt of a signed statement by the individual that the classification is required for the safety of the applicant or the applicant's family, if the statement also provides a valid, existing address where the applicant consents to receive service of process. The commissioner shall use the service for process mailing address in place of the residence address in all documents and notices pertaining to the driver's license, instruction permit, or Minnesota identification card. The residence address and any information provided in the classification request, other than the mailing address, are private data on individuals and may be provided to requesting law enforcement agencies, probation and parole agencies, and public authorities, as defined in section 518A.26, subdivision 18.

Sec. 4. Minnesota Statutes 2022, section 171.12, subdivision 7a, is amended to read:

Subd. 7a. **Disclosure of personal information.** (a) ~~The~~ Subject to subdivision 11, the commissioner ~~shall~~ must disclose personal information where the use is related to the operation of a motor vehicle or to public safety. The use of personal information is related to public safety if it concerns the physical safety or security of drivers, vehicles, pedestrians, or property. The commissioner may refuse to disclose data under this subdivision when the commissioner concludes that the requester is likely to use the data for illegal, improper, or noninvestigative purposes.

(b) The commissioner ~~shall~~ must disclose personal information to the secretary of state for the purpose of increasing voter registration and improving the accuracy of voter registration records in the statewide voter registration system. The secretary of state may not retain data provided by the commissioner under this subdivision for more than 60 days and may not share or disseminate any data on individuals who have applied for or been issued a noncompliant driver's license or identification card except for the purpose of administering elections or as permitted in section 201.13, subdivision 3, paragraph (d).

Sec. 5. Minnesota Statutes 2022, section 171.12, subdivision 7b, is amended to read:

Subd. 7b. **Data privacy; noncompliant license or identification card.** (a) With respect to noncompliant licenses or identification cards, the commissioner is prohibited from:

(1) electronically disseminating outside the state data that is not disseminated as of May 19, 2017; or

(2) utilizing any electronic validation or verification system accessible from or maintained outside the state that is not in use as of May 19, 2017.

(b) The limitations in paragraph (a) do not apply to the extent necessary to: (1) maintain compliance with the driver's license compact under section 171.50 and applicable federal law governing commercial driver's licenses; and (2) perform identity verification as part of an application for a replacement Social Security card issued by the Social Security Administration.

(c) For purposes of this subdivision, "outside the state" includes federal agencies, states other than Minnesota, organizations operating under agreement among the states, and private entities.

(d) Prior to disclosing to a data requester, other than the data subject, any data on individuals relating to a noncompliant driver's license or identification card, the commissioner or a driver's license agent must require the data requester to certify that the data requester must not use the data for civil immigration enforcement purposes or disclose the data to a state or federal government entity that primarily enforces immigration law or to any employee or agent of any such government entity. A data requester who violates the certification required in this paragraph may be liable in a civil action brought under section 13.08, may be subject to criminal penalties under section 13.09, may have subsequent requests for noncompliant driver's license or identification card data be denied by the commissioner, and may lose access to the driver records subscription service under section 168.327. A certification form used by the commissioner or a driver's license agent under this paragraph must include information about penalties that apply for violations.

Sec. 6. Minnesota Statutes 2022, section 171.12, subdivision 9, is amended to read:

Subd. 9. **Driving record disclosure to law enforcement.** Subject to subdivision 11, the commissioner shall also furnish driving records, without charge, to chiefs of police, county sheriffs, prosecuting attorneys, and other law enforcement agencies with the power to arrest.

Sec. 7. Minnesota Statutes 2022, section 171.12, is amended by adding a subdivision to read:

Subd. 11. **Certain data on noncompliant license or identification card; department and agents.** (a) For purposes of this section, "immigration status data" means data on individuals who have applied for or been issued a noncompliant driver's license or identification card and that indicate or otherwise have the effect of identifying (1) whether the individual has demonstrated United States citizenship, or (2) whether the individual has demonstrated lawful presence in the United States. Immigration status data include but are not limited to any documents specified under section 171.06, subdivision 9, 10, or 11; immigration status data contained in those documents; or the applicant's submission of the documents.

(b) Immigration status data are classified as private data on individuals, as defined in section 13.02, subdivision 12. Notwithstanding any law to the contrary, the commissioner or a driver's license agent must not share or disseminate immigration status data except to or within the division of the department that administers driver licensing and to the secretary of state for purposes of improving the accuracy of voter registration records under subdivision 7a.

(c) As authorized or required by state or federal law, the commissioner or a driver's license agent may share or disseminate data on individuals who have applied for or been issued a noncompliant driver's license or identification card that are not immigration status data to a government entity, as defined in section 13.02, subdivision 7a, or to a federal government entity that does not enforce immigration law, provided that the receiving entity must not use the data for civil immigration enforcement purposes or further disclose the data to a state or federal government entity that primarily enforces immigration law or to any employee or agent of any such government entity.

(d) Notwithstanding any law to the contrary, the commissioner or a driver's license agent must not share or disseminate any data on individuals who have applied for or been issued a noncompliant driver's license or identification card to any federal government entity that primarily enforces immigration law, except pursuant to a valid search warrant or court order issued by a state or federal judge.

(e) Violation of this subdivision by the commissioner, a driver's license agent, a government entity, or an employee or agent thereof constitutes a violation of the Minnesota Government Data Practices Act and may be subject to penalties and remedies applicable under that chapter.

Presented to the governor March 6, 2023