

State of South Dakota

EIGHTY-SEVENTH SESSION LEGISLATIVE ASSEMBLY, 2012

970T0321

HOUSE BILL NO. 1169

Introduced by: Representatives Russell, Greenfield, Hubbel, Jensen, Killer, Kirkeby, Kopp, Nelson (Stace), Olson (Betty), Venner, and Verchio and Senators Adelstein, Begalka, Maher, Novstrup (Al), and Rampelberg

1 FOR AN ACT ENTITLED, An Act to repeal certain driver licensing documentation
2 requirements.

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

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

5 32-12-1. For purposes of this chapter, terms are defined in § 32-14-1. Terms used in this
6 chapter mean:

7 (1) "Driver license," a document issued by a state or jurisdiction to an individual that
8 authorizes the individual to drive a motor vehicle, including an operator's license,
9 motorcycle operator's license, restricted minor's permit, motorcycle restricted minor's
10 permit, instruction permit, motorcycle instruction permit, and temporary permit; and

11 (2) "Operator's license," any document issued by a state or jurisdiction to an individual
12 that bestows full driving privileges upon the individual; ~~and~~

13 ~~(3) "Principal residence," the location where a person currently resides even if at a~~
14 ~~temporary address.~~



Section 2. That § 32-12-1.1 be repealed.

~~32-12-1.1. 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;~~

- 1 ~~— (3) — A valid, unexpired permanent resident card (form I-551 issued by the United States~~
2 ~~Department of Homeland Security or Immigration and Naturalization Services);~~
- 3 ~~— (4) — An unexpired employment authorization document issued by the United States~~
4 ~~Department of Homeland Security (form I-766 or I-688B);~~
- 5 ~~— (5) — An unexpired foreign passport with a valid, unexpired United States visa affixed~~
6 ~~accompanied by the approved I-94 form documenting the applicant's most recent~~
7 ~~entrance into the United States;~~
- 8 ~~— (6) — A certificate of naturalization issued by the United States Department of Homeland~~
9 ~~Security (form N-550 or N-570);~~
- 10 ~~— (7) — A certificate of citizenship form N-560 or N-561 issued by the United States~~
11 ~~Department of Homeland Security;~~
- 12 ~~— (8) — A valid driver license issued by this state or another state that meets the requirements~~
13 ~~of 6 C.F.R. Part 37 as amended through January 1, 2009, and is acceptable by federal~~
14 ~~agencies for official purposes;~~
- 15 ~~— (9) — Any other document designated by the Department of Homeland Security by~~
16 ~~publication in the Federal Register that establishes identity and date of birth; or~~
- 17 ~~— (10) — A valid, unexpired United States passport.~~
- 18 ~~— For all documentation offered by the applicant to provide evidence of identity, date of birth,~~
19 ~~social security number or nonwork authorized status, address of principal residence, and lawful~~
20 ~~status, the department shall make a copy of the documentation and shall retain the copy for ten~~
21 ~~years. All documents retained under this section are confidential. The examiner may, as part of~~
22 ~~a documented exceptions process, accept other evidence of identity and date of birth of any~~
23 ~~applicant and lawful status of any United States citizen only if the examiner is satisfied that the~~
24 ~~applicant cannot, for good reason beyond the applicant's control, produce such primary~~

1 ~~documents. The examiner shall record the acceptance of any alternative document under the~~
2 ~~exceptions process. The Department of Public Safety may not require new evidence of birth at~~
3 ~~the time an application is made by a person holding an operator's license, motorcycle operator's~~
4 ~~license, restricted minor's permit, motorcycle restricted minor's permit, instruction permit,~~
5 ~~motorcycle instruction permit, or nondriver identification card, if that person's driver license or~~
6 ~~nondriver identification card meets the requirements of 6 C.F.R. Part 37 as amended through~~
7 ~~January 1, 2009, is acceptable by federal agencies for official purposes, and is turned in to the~~
8 ~~department with the application. Any person who obtains a driver license or nondriver~~
9 ~~identification card pursuant to this section fraudulently or by use of a fraudulently obtained~~
10 ~~document is guilty of a Class 1 misdemeanor. Any applicant under this chapter shall, on making~~
11 ~~application for an operator's license, motorcycle operator's license, restricted minor's permit,~~
12 ~~motorcycle restricted minor's permit, instruction permit, motorcycle instruction permit, or~~
13 ~~nondriver identification card, present to the examiner a certified copy of a United States birth~~
14 ~~certificate issued in or by a city, county, or state, a tribal identification card that provides~~
15 ~~evidence that a certified birth certificate issued by a city, county, or state was used to obtain the~~
16 ~~tribal identification card and is in a form and content acceptable to the Department of Public~~
17 ~~Safety, a naturalization and immigration record authorizing the applicant's presence in the~~
18 ~~United States, or a valid passport. If any of the documentation offered by the applicant includes~~
19 ~~a naturalization and immigration record or has been issued by a foreign country or jurisdiction,~~
20 ~~the department shall make a copy of the documentation and shall retain the copy for one year~~
21 ~~from the date the copy was made or until the expiration of any license, permit, or identification~~
22 ~~card issued in reliance upon the documentation, whichever is later. The examiner may accept~~
23 ~~other evidence of birth only if the examiner is satisfied that the applicant cannot, for good reason~~
24 ~~beyond the applicant's control, produce such primary documents. The Department of Public~~

1 Safety may not require new evidence of birth at the time an application is made by a person
2 holding an operator's license, motorcycle operator's license, restricted minor's permit,
3 motorcycle restricted minor's permit, instruction permit, motorcycle instruction permit, or
4 nondriver identification card, if that person's driver license or nondriver identification card is
5 turned in to the department with the application. Any person who obtains a driver license or
6 nondriver identification card pursuant to this section fraudulently or by use of a fraudulently
7 obtained document is guilty of a Class 2 misdemeanor

8 Section 4. That § 32-12-3.3 be repealed.

9 ~~— 32-12-3.3. Any applicant under the provisions of this chapter shall, on making application~~
10 ~~for an operator's license, motorcycle operator's license, restricted minor's permit, motorcycle~~
11 ~~restricted minor's permit, instruction permit, motorcycle instruction permit, or nondriver~~
12 ~~identification card, present to the examiner evidence of lawful status in the United States. If the~~
13 ~~applicant has presented one of the identity documents listed under subdivision 32-12-3.1(1), (2),~~
14 ~~(3), (4), (5), (6), (7), or (10), the document is satisfactory evidence of lawful status. If the~~
15 ~~applicant presents the identity documents listed under subdivision 32-12-3.1(8) or (9), the~~
16 ~~document is not satisfactory evidence of lawful status. Such applicant shall also present a~~
17 ~~second document from subdivision 32-12-3.1(1), (2), (3), (4), (5), (6), (7), or (10) or~~
18 ~~documentation issued by the United States Department of Homeland Security or other federal~~
19 ~~agencies demonstrating lawful status as determined by the United States Citizenship and~~
20 ~~Immigration Services through the systematic alien verification for entitlements system or~~
21 ~~alternate method approved by the United States Department of Homeland Security.~~

22 Section 5. That § 32-12-3.4 be repealed.

23 ~~— 32-12-3.4. Any applicant under the provisions of this chapter who has been assigned a social~~
24 ~~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 6. That § 32-12-3.5 be repealed.

— 32-12-3.5. 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 7. 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

1 ~~of evidence of date of birth and identity as allowed by § 32-12-3.1. The fee for an original or~~
2 ~~reissued nondriver identification card is the same as prescribed for an original driver license in~~
3 ~~§ 32-12-16. Each nondriver identification card expires on the holder's birthday in the fifth year~~
4 ~~following the issuance of the nondriver identification card, or on the date of expiration of the~~
5 ~~applicant's authorized stay in the United States as determined by the systematic alien verification~~
6 ~~for entitlements system or alternate method approved by the United States Department of~~
7 ~~Homeland Security or, if there is no expiration date, for a period no longer than one year from~~
8 ~~date of issuance, whichever occurs first. Each nondriver identification card is renewable one~~
9 ~~hundred eighty days before its expiration upon application and payment of the required fee. Any~~
10 ~~nondriver identification card renewed before its expiration expires five years after the holder's~~
11 ~~ensuing birthday, or on the date of expiration of the applicant's authorized stay in the United~~
12 ~~States as determined by the systematic alien verification for entitlements system or alternate~~
13 ~~method approved by the United States Department of Homeland Security or, if there is no~~
14 ~~expiration date, for a period no longer than one year from date of issuance, whichever occurs~~
15 ~~first. The nondriver identification card shall bear an indication if the holder has a living will~~
16 ~~pursuant to chapter 34-12D or a durable power of attorney for health care pursuant to chapter~~
17 ~~59-7. Any nondriver identification card renewed during the thirty-day period following the date~~
18 ~~of expiration expires five years from the holder's previous birthday, or on the date of expiration~~
19 ~~of the applicant's authorized stay in the United States as determined by the systematic alien~~
20 ~~verification for entitlements system or alternate method approved by the United States~~
21 ~~Department of Homeland Security or, if there is no expiration date, for a period no longer than~~
22 ~~one year from date of issuance, whichever occurs first. The Department of Public Safety may~~
23 ~~issue upon application a nondriver identification card, similar in form but distinguishable in~~
24 ~~color from driver licenses, to any resident of South Dakota. Each applicant for a nondriver~~

1 identification card shall, as part of the application, present to the department a certified copy of
2 a certificate of birth or another form of evidence of birth as allowed by § 32-12-3.1. The fee for
3 an original or reissued nondriver identification card is the same as prescribed for an original
4 driver license in § 32-12-16. Each nondriver identification card expires on the holder's birthday
5 in the fifth year following the issuance of the nondriver identification card, or on the same date
6 as the expiration date on the valid documents authorizing the applicant's presence in the United
7 States in accordance with § 32-12-3.1, whichever occurs first. Each nondriver identification card
8 is renewable one hundred eighty days before its expiration upon application and payment of the
9 required fee. Any nondriver identification card renewed before its expiration expires five years
10 after the holder's ensuing birthday, or on the same date as the expiration date on the valid
11 documents authorizing the applicant's presence in the United States in accordance with
12 § 32-12-3.1, whichever occurs first. The nondriver identification card shall bear an indication
13 if the holder has a living will pursuant to chapter 34-12D or a durable power of attorney for
14 health care pursuant to chapter 59-7. Any nondriver identification card renewed during the
15 thirty-day period following the date of expiration expires five years from the holder's previous
16 birthday, or on the same date as the expiration date on the valid documents authorizing the
17 holder's presence in the United States in accordance with § 32-12-3.1, whichever occurs first.

18 Section 8. That § 32-12-17.10 be amended to read as follows:

19 32-12-17.10. ~~An operator's license, motorcycle operator's license, restricted minor's permit,~~
20 ~~motorcycle restricted minor's permit, instruction permit, and motorcycle instruction permit shall~~
21 ~~bear a distinguishing number assigned to the licensee, the full legal name or any name lawfully~~
22 ~~taken, date of birth, gender, principal residence address, an indication if the licensee is a donor~~
23 ~~pursuant to chapter 34-26, an indication if the licensee has a living will pursuant to chapter 34-~~
24 ~~12D or a durable power of attorney for health care pursuant to chapter 59-7, a full facial digital~~

1 ~~photograph, a brief description of the licensee, the licensee's signature, security features~~
2 ~~designed to deter forgery and counterfeiting, to promote an adequate level of confidence in the~~
3 ~~authenticity of the cards, and to facilitate detection of fraudulent cards, the issue date of the~~
4 ~~license, the expiration date of the license, an indication that the license is temporary or limited~~
5 ~~term if the holder has temporary lawful status in the United States, the name of this state, and~~
6 ~~a security marking approved by the United States Department of Homeland Security reflecting~~
7 ~~the level of compliance with 6 C.F.R. Part 37 as amended through January 1, 2009. The~~
8 ~~department shall indicate upon each license the general class of vehicles that the licensee may~~
9 ~~drive. The back of the license shall contain a barcode. The department shall include in the~~
10 ~~barcode the name of this state, the information printed on the license, the card design revision~~
11 ~~date indicating the most recent change or modification to the visible format of the card, and an~~
12 ~~indicator if the license is temporary or limited term. No barcode, or other means by which~~
13 ~~information may be retrieved electronically, may contain the licensee's social security number.~~
14 An operator's license, motorcycle operator's license, restricted minor's permit, motorcycle
15 restricted minor's permit, instruction permit, and motorcycle instruction permit shall bear a
16 distinguishing number assigned to the licensee, the full legal name or any name lawfully taken,
17 date of birth, residence address, an indication if the licensee is a donor pursuant to chapter
18 34-26, an indication if the licensee has a living will pursuant to chapter 34-12D or a durable
19 power of attorney for health care pursuant to chapter 59-7, a color photo, and a brief description
20 of the licensee, and the licensee's signature. The department shall indicate upon each license the
21 general class of vehicles that the licensee may drive. If a barcode, or other means by which
22 information may be retrieved electronically, is placed on the license, the data field may contain
23 the information printed on the license. No barcode, or other means by which information may
24 be retrieved electronically, may contain the licensee's social security number.

Section 9. That § 32-12-17.14 be repealed.

~~32-12-17.14. 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 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~~

1 ~~licensee shall take the knowledge test as required by § 32-12-4. Any license renewed during the~~
2 ~~thirty-day period following the date of expiration expires five years from the licensee's previous~~
3 ~~birthday, or on the date of expiration of the applicant's authorized stay in the United States as~~
4 ~~determined by the systematic alien verification for entitlements system or alternate method~~
5 ~~approved by the United States Department of Homeland Security or, if there is no expiration~~
6 ~~date, for a period no longer than one year from date of issuance, whichever occurs first. Each~~
7 ~~operator's license, motorcycle operator's license, restricted minor's permit, or motorcycle~~
8 ~~restricted minor's permit expires on the licensee's birthday in the fifth year following the~~
9 ~~issuance of the license, or on the same date as the expiration date on the valid documents~~
10 ~~authorizing the applicant's presence in the United States in accordance with § 32-12-3.1,~~
11 ~~whichever occurs first. Each operator's license, motorcycle operator's license, restricted minor's~~
12 ~~permit, or motorcycle restricted minor's permit is renewable one hundred eighty days before its~~
13 ~~expiration upon application and payment of the required fee. Any license renewed before its~~
14 ~~expiration expires five years after the licensee's ensuing birthday, or on the same date as the~~
15 ~~expiration date on the valid documents authorizing the applicant's presence in the United States~~
16 ~~in accordance with § 32-12-3.1, whichever occurs first. However, the department shall waive~~
17 ~~the knowledge and driving tests for renewal, if the licensee applies and makes payment of the~~
18 ~~required fee within thirty days following the expiration date. If the licensee applies and makes~~
19 ~~payment of the required fee thirty-one or more days after the expiration date of the license, the~~
20 ~~licensee shall take the knowledge test as required by § 32-12-4. Any license renewed during the~~
21 ~~thirty-day period following the date of expiration expires five years from the licensee's previous~~
22 ~~birthday, or on the same date as the expiration date on the valid documents authorizing the~~
23 ~~applicant's presence in the United States in accordance with § 32-12-3.1, whichever occurs first.~~

24 Section 11. That § 32-12-42.2 be repealed.

~~32-12-42.2. 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 12. That § 32-12A-14.1 be repealed.

~~32-12A-14.1. 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~~ and residential and mailing addresses of the licensee;

(2) ~~A full facial digital photograph of the licensee~~ The licensee's color photograph;

(3) ~~A distinguishing number assigned to the licensee;~~

~~(4)~~ A physical description of the licensee, including sex, height, weight, and eye color;

~~(5)~~(4) Date of birth;

~~(6)~~(5) An indication if the licensee is a donor pursuant to chapter 34-26;

~~(7)~~(6) The licensee's signature;

~~(8)~~(7) The class of commercial motor vehicle or vehicles which the licensee is authorized to operate, including any endorsements or restrictions;

~~(9)~~(8) The name of this state; and

1 ~~(10)~~(9) The dates between which the commercial driver license is valid;
2 ~~(11)~~ A barcode on the back of the license containing the name of this state, the
3 information printed on the license, and the card design revision date indicating the
4 most recent change or modification to the visible format of the card; and
5 ~~(12)~~ A security marking approved by the United States Department of Homeland Security
6 reflecting the level of compliance with 6 C.F.R. Part 37 as amended through January
7 1, 2009.

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

9 32-12A-30. A commercial driver license issued pursuant to this chapter, expires on the
10 licensee's birthday in the fifth year following the issuance of the license. ~~Any nonresident~~
11 ~~commercial driver license expires on the date of expiration of the applicant's authorized stay in~~
12 ~~the United States as determined by the systematic alien verification for entitlements system or~~
13 ~~alternate method approved by the United States Department of Homeland Security or, if there~~
14 ~~is no expiration date, for a period no longer than one year from date of issuance. However, no~~
15 ~~nonresident commercial driver license may expire on a date later than the licensee's birthday in~~
16 ~~the fifth year following the issuance of the license.~~