

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1308 of the Regular Session

1 State of Arkansas
2 87th General Assembly
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4

As Engrossed: H3/13/09 S4/1/09

A Bill

HOUSE BILL 1978

5 By: Representatives J. Edwards, Kerr, *Sample*
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7

For An Act To Be Entitled

9 AN ACT TO PROVIDE VOLUNTARY ALTERNATIVE DRIVER'S
10 LICENSES AND IDENTIFICATION CARDS FOR ENHANCED
11 IDENTIFICATION AND SECURITY PURPOSES; AND FOR
12 OTHER PURPOSES.
13

Subtitle

14 TO PROVIDE VOLUNTARY ALTERNATIVE
15 DRIVER'S LICENSES AND IDENTIFICATION
16 CARDS FOR ENHANCED IDENTIFICATION AND
17 SECURITY PURPOSES.
18
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20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code Title 27, Chapter 16 is amended to add an
24 additional subchapter to read as follows:

25 27-16-1201. Title.

26 This subchapter shall be known and may be cited as the "Arkansas
27 Voluntary Enhanced Security Driver's License and Identification Card Act".
28

29 27-16-1202. Purpose.

30 The purpose of this subchapter is:

31 (a) To ensure that as an alternative to a driver's license or
32 identification card otherwise issued under Title 27 of the Arkansas Code,
33 Arkansas citizens may have the option of obtaining a driver's license or
34 identification card with additional security features for enhanced
35 identification purposes; and



1 (b) To ensure that holders of standard driver’s licenses and
2 identification cards otherwise issued under this chapter continue to enjoy
3 all rights and privileges to which they are currently entitled under Arkansas
4 law.

5
6 27-16-1203. Definitions.

7 As used in this subchapter:

8 (1) “Department” means the Department of Finance and
9 Administration;

10 (2) “Director” means the Director of the Department of Finance
11 and Administration;

12 (3) “Voluntary enhanced security commercial driver’s license”
13 means a commercial motor vehicle operator’s license issued under this
14 chapter;

15 (4) “Voluntary enhanced security driver’s license” means a motor
16 vehicle operator’s license issued under this subchapter; and

17 (5) “Voluntary enhanced security identification card” means a
18 personal identification card described in this subchapter.

19
20 27-16-1204. System development.

21 (a) Notwithstanding any other provision of law, the Director of the
22 Department of Finance and Administration may perform any system development
23 necessary to implement the requirements of this subchapter.

24 (b) As used in this section, “system development” includes without
25 limitation to the following:

26 (1) Acquisition of equipment and information technology systems
27 and services;

28 (2) Modification, conversion, or upgrade of the department’s
29 existing databases, equipment, and information technology systems;

30 (3) Establishment of electronic connectivity with any other
31 state’s motor vehicle department, federal agency, association, or business;

32 (4) Creation of a new design for driver’s licenses, driver
33 permits, and identification cards that will meet the minimum content, design,
34 and security standards required by this subchapter;

35 (5) Collection, management, and retention of personal
36 information and identity documents; and

1 (6) Development and implementation of a comprehensive security
2 plan to ensure the security and integrity of the department's:

3 (A) Employees;

4 (B) Facilities;

5 (C) Storage systems;

6 (D) Production of:

7 (i) Driver's licenses;

8 (ii) Driver permits; and

9 (iii) Identification cards; and

10 (E) Collection and retention of personal information and
11 identity documents.

12
13 27-16-1205. Application of statutory provisions governing driver's
14 licenses and identification cards.

15 (a)(1) In addition to the requirements of this subchapter, the
16 issuance, renewal, and use of a voluntary enhanced security driver's license
17 shall be subject to the requirements and fees for obtaining, renewing, and
18 using a driver's license otherwise issued under this Title 27 of the Arkansas
19 Code.

20 (2) A voluntary enhanced security driver's license issued under
21 this subchapter may be used for all state purposes authorized for driver's
22 licenses otherwise issued under this Title 27 of the Arkansas Code.

23 (b)(1) In addition to the requirements of this subchapter, the
24 issuance, renewal, and use of a voluntary enhanced security identification
25 card shall be subject to the requirements and fees for obtaining, renewing,
26 and using a identification card otherwise issued under this Title 27 of the
27 Arkansas Code.

28 (2) A voluntary enhanced security identification card issued
29 under this subchapter may be used for all state purposes authorized for
30 identification cards otherwise issued under this Title 27 of the Arkansas
31 Code.

32 (c)(1) In addition to the requirements of this subchapter, the
33 issuance, renewal, and use of a voluntary enhanced security commercial
34 driver's license shall be subject to the requirements and fees for obtaining,
35 renewing, and using a driver's license and identification card otherwise
36 issued under this Title 27 of the Arkansas Code.

1 (2) A voluntary enhanced security commercial driver's license
2 issued under this subchapter may be used for all state purposes authorized
3 for commercial driver's licenses otherwise issued under this Title 27 of the
4 Arkansas Code.

5 (d) A voluntary enhanced security driver's license, voluntary enhanced
6 security commercial driver's license, or voluntary enhanced security
7 identification card issued under this subchapter is subject to this Title 27
8 or Title 5 of the Arkansas Code concerning the suspension, revocation, and
9 reinstatement of other driver's licenses, commercial driver's licenses, or
10 identification cards.

11 (e) In addition to the requirements of this subchapter, a voluntary
12 enhanced security driver's license, voluntary enhanced security commercial
13 driver's license, or voluntary enhanced security identification card issued
14 under this subchapter shall be subject to all provisions of the Driver's
15 License Security and Modernization Act, § 27-16-1101 et seq.

16 (f) If another provision of Arkansas law conflicts with the provisions
17 of this subchapter, the provisions of this subchapter shall control.

18
19 27-16-1206. Application for voluntary enhanced security driver's
20 license or identification card.

21 (a) As an alternative to applying for the standard driver's license,
22 commercial driver's license, or identification card under other subchapters
23 of this chapter, a person may apply for a voluntary enhanced security
24 driver's license, voluntary enhanced security commercial driver's license, or
25 voluntary enhanced security identification card under this subchapter.

26 (b) The Office of Driver Services of the Department of Finance and
27 Administration shall not include an electronic chip or any type of radio
28 frequency identification (RFID) tag or chip in any driver's license or
29 identification card or enhanced security driver's license or identification
30 cards issued by the department.

31 (c) The office shall not collect the following biometric data from
32 applicants for any driver's license, identification card, enhanced security
33 driver's license, or enhanced security identification card issued by the
34 department:

35 (1) Voice data used to compare live speech;

36 (2) Iris recognition data such as iris scans, texture patterns,

1 or retinal scans;

2 (3) Keystroke dynamics that measure pressure applied to key
3 pads;

4 (4) Hand geometry that measures hand characteristics, including
5 the shape and length of fingers in three (3) dimensions; and

6 (5) Deoxyribonucleic acid (DNA) or ribonucleic acid (RNA).

7
8 27-16-1207. Issuance standards – Proof of physical address.

9 (a) In addition to the information required under § 27-16-1105, an
10 applicant for a voluntary enhanced security driver's license, voluntary
11 enhanced security commercial driver's license, or voluntary enhanced security
12 identification card under this subchapter must present two (2) of the
13 following documents upon application or renewal that show the name and
14 physical residential address of the applicant:

15 (1)(A) Utility bill;

16 (B) Current lease or rental agreement;

17 (C) Bank statement;

18 (D) Mortgage statement;

19 (E) Telephone bill;

20 (F) Current insurance policy;

21 (G) State or federal tax return that is less than one (1)

22 year old;

23 (H) On a formal letterhead, a letter from a bank manager,
24 medical practitioner, accountant, or attorney that states that he or she has
25 known the applicant for three (3) years and that confirms the applicant's
26 physical residential address; or

27 (I) Payslip or salary advice;

28 (2) Any of the above documents described in subdivisions
29 (a)(1)(A)-(I) of this section that contains the name of the spouse of the
30 applicant, together with a certified copy of the applicant's marriage license
31 or marriage certificate; or

32 (3)(a) Any other documentation the Director of the Department of
33 Finance and Administration determines to be adequate proof of physical
34 address.

35 (b) The documentation furnished under subdivisions (a)(1)(A)-(I) of
36 this section must be less than six (6) months old unless otherwise specified

1 under subsection (a) of this section.

2 (c) An Arkansas post office box address is not sufficient proof of
3 physical address for purposes of this section.

4 (d) The director may require additional proof of physical address if
5 the director questions the validity or authenticity of the proof of physical
6 address submitted by the applicant.

7
8 27-16-1208. Evidence of lawful status.

9 The Director of the Department of Finance and Administration shall
10 require before issuing a voluntary enhanced security driver's license,
11 voluntary enhanced security commercial driver's license, or voluntary
12 enhanced security identification card valid documentary evidence that the
13 applicant:

14 (1) Is a citizen or national of the United States;

15 (2) Is an alien lawfully admitted for permanent or temporary
16 residence in the United States;

17 (3) Has conditional permanent resident status in the United
18 States;

19 (4) Has an approved application for asylum in the United States
20 or has entered into the United States in refugee status;

21 (5) Has a valid, unexpired nonimmigrant visa or nonimmigrant
22 visa status for entry into the United States;

23 (6) Has a pending application for asylum in the United States;

24 (7) Has a pending or approved application for temporary
25 protected status in the United States;

26 (8) Has approved deferred action status; or

27 (9) Has a pending application for adjustment of status to that
28 of an alien lawfully admitted for permanent residence in the United States or
29 conditional permanent resident status in the United States.

30
31 27-16-1209. Expiration and renewal of voluntary enhanced security
32 driver's licenses and identification cards.

33 (a) A voluntary enhanced security driver's license, voluntary enhanced
34 security commercial driver's license, and voluntary enhanced security
35 identification card issued to a United States citizen or United States
36 national under this subchapter shall expire at the time provided for other

1 driver's licenses, commercial driver's licenses, and identification cards
2 issued under this Title 27 of the Arkansas Code.

3 (b)(1) Every voluntary enhanced security driver's license, voluntary
4 enhanced security commercial driver's license, or voluntary enhanced security
5 identification card issued to an applicant other than a United States citizen
6 or United States national shall expire on the date indicated in subsection
7 (b)(2) of this section if the applicant provides valid documentary evidence
8 of legal status that the person:

9 (A) Is an alien lawfully admitted for permanent or
10 temporary residence in the United States;

11 (B) Has conditional permanent resident status in the
12 United States;

13 (C) Has a valid, unexpired nonimmigrant visa or
14 nonimmigrant visa status for entry into the United States;

15 (D) Has a pending or approved application for asylum in
16 the United States;

17 (E) Has entered into the United States in refugee status;

18 (F) Has a pending or approved application for temporary
19 protected status in the United States;

20 (G) Has approved deferred action status; or

21 (H) Has a pending application for adjustment of status to
22 that of an alien lawfully admitted for permanent residence in the United
23 States or conditional permanent resident status in the United States.

24 (2)(A) If the applicant for issuance or renewal of a voluntary
25 enhanced security driver's license, voluntary enhanced security commercial
26 driver's license, or voluntary enhanced security identification card provides
27 valid documentary evidence of legal status with no expiration date, the
28 driver's license or identification card issued shall expire on the end of the
29 month in which the driver's license or identification card was issued one (1)
30 year from its date of initial issuance.

31 (B) If the applicant for issuance or renewal of a
32 voluntary enhanced security driver's license, voluntary enhanced security
33 commercial driver's license, or voluntary enhanced security identification
34 card provides valid documentary evidence of legal status containing an
35 expiration date, the driver's license or identification card issued shall
36 expire on the earlier to occur of the following:

1 (i) The date of expiration indicated on the person's
2 valid documentary evidence of legal status; or

3 (ii) The expiration date listed in subdivisions
4 (b)(1) or (b)(2)(A) of this section.

5 (3) The Office of Driver Services of the Department of Finance
6 and Administration shall verify the legal presence of an applicant for
7 renewal of a voluntary enhanced security driver's license, voluntary enhanced
8 security commercial driver's license, or voluntary enhanced security
9 identification card of a person included in subdivisions (b)(1) or (b)(2)(A)
10 of this section by utilizing the automated system known as the Verification
11 Information System database of the Systematic Alien Verification for
12 Entitlements Program, as provided by section 404 of the Illegal Immigration
13 Reform and Immigration Responsibility Act of 1996.

14 (c) A voluntary enhanced security driver's license, voluntary enhanced
15 security commercial driver's license, or voluntary enhanced security
16 identification card issued under this section must be renewed at the end of
17 the period specified in subsections (a) and (b) of this section and, to the
18 extent applicable, other renewal provisions in this chapter.

19 (d) The Director of the Department of Finance and Administration may
20 by rule shorten or lengthen the term of any driver's license or
21 identification card period under this section, as necessary, to ensure that
22 approximately twenty-five percent (25%) of the total valid licenses are
23 renewable each fiscal year.

24
25 27-16-1210. Enhanced security card issuance and renewal fees.

26 (a) The fee for the initial issuance of a voluntary enhanced security
27 driver's license, voluntary enhanced security commercial driver's license, or
28 voluntary enhanced security identification card under this subchapter is the
29 same as the fee for initial issuance of other driver's licenses, commercial
30 driver's licenses, and identification cards listed in Title 27 of the
31 Arkansas Code.

32 (b) The fee for the renewal of a voluntary enhanced security driver's
33 license, voluntary enhanced security commercial driver's license, or
34 voluntary enhanced security identification card under § 27-16-1209(a) is the
35 same as the fee for renewal of other driver's licenses, commercial driver's
36 licenses, and identification cards listed in Title 27 of the Arkansas Code.

1 (c) The fee for the renewal of a voluntary enhanced security driver's
2 license, voluntary enhanced security commercial driver's license, or
3 voluntary enhanced security identification card under § 27-16-1209(b) is the
4 same as the fee for renewal of other driver's licenses, commercial driver's
5 licenses, and identification cards listed in this chapter, subject to a pro
6 rata reduction in the renewal fee for any shortened renewal period under §
7 27-16-1209(b).

8 (d) The renewal fee for a license or identification card that expires
9 as provided in § 27-16-1209(b)(2) is an amount calculated by multiplying the
10 amount of a renewal fee whose term is not shortened by a fraction whose
11 numerator is the number of months for which the renewal license or
12 identification card is issued and whose denominator is the number of months
13 that would have applied had the renewal time not been shortened.

14
15 27-16-1211. Authority to promulgate rules.

16 The Director of the Department of Finance and Administration may
17 promulgate any necessary rules to carry out this subchapter, subject to the
18 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

19
20 27-16-1212. Implementation date.

21 (a) This subchapter shall be effective and shall be implemented only
22 if the Director of the Department of Finance and Administration:

23 (1) Determines that the voluntary enhanced identification and
24 security features under this subchapter are necessary to ensure secure
25 commerce and travel by Arkansas citizens within and throughout the State of
26 Arkansas, the United States, and abroad;

27 (2) Determines that Congress has not repealed the federal REAL
28 ID Act of 2005, 49 U.S.C. § 30301 note (Pub. L. 109-13 of 2005); and

29 (3) Promulgates a rule specifying the date of implementation of
30 this subchapter.

31
32 27-16-1213. Expiration.

33 (a) The provisions of this subchapter shall expire on June 30, 2011,
34 or on the date Congress repeals the federal REAL ID Act of 2005, 49 U.S.C. §
35 30301 note (Pub. L. 109-13 of 2005), whichever date is earlier.

36 (b) The Office of Motor Vehicle shall not issue or renew an enhanced

1 security driver's license, enhanced security commercial driver's license, or
2 enhanced security identification card after the expiration of this
3 subchapter.

4 (c) An enhanced security driver's license, enhanced security
5 commercial driver's license or enhanced security identification card issued
6 before the expiration date of this subchapter and that the normal expiration
7 date falls after the expiration date of this subchapter shall remain valid
8 for the full duration of the license period.

9
10 /s/ J. Edwards

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12 APPROVED: 4/9/2009
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