

HB 328 - AS INTRODUCED

2021 SESSION

21-0422

11/10

HOUSE BILL           **328**

AN ACT               relative to the application process for drivers' licenses and relative to privacy of motor vehicle records.

SPONSORS:         Rep. Sykes, Graf. 13; Rep. Welch, Rock. 13; Sen. Watters, Dist 4

COMMITTEE:       Transportation

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ANALYSIS

This bill prohibits the department of safety division of motor vehicles from releasing certain motor vehicle records to certain law enforcement agencies and provides for the issuance of non-Real ID driver's licenses to applicants without a social security number for a fee.

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Explanation:       Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty One*

AN ACT                    relative to the application process for drivers' licenses and relative to privacy of motor vehicle records.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            1 Motor Vehicles; Records and Certification. Amend RSA 260:14, III to read as follows:

2            III.(a) ***Except as provided in subparagraphs (b) and (c)***, motor vehicle records may be  
3 made available pursuant to a court order or in response to a request from a state, a political  
4 subdivision of a state, the federal government ***for criminal investigations***, or a law enforcement  
5 agency for use in official business ***except for agencies that enforce immigration laws in their***  
6 ***ordinary course of conducting civil investigations***. The request shall be on a case-by-case  
7 basis. Any records received pursuant to this paragraph shall not be further transferred or otherwise  
8 made available to any other person or listed entity not authorized under this paragraph. Any  
9 records received pursuant to this paragraph shall not be used, further transferred, or otherwise  
10 made available to any other person or entity for the purpose of creating or enhancing a federal  
11 identification database.

12            (b) ***The department shall not disclose or otherwise make accessible any portion***  
13 ***of any record that identifies whether or not the type of drivers' license a person holds meets***  
14 ***federal standards for identification except:***

15                    (1) ***To the subject of such motor vehicle record.***

16                    (2) ***Where expressly required by 49 U.S.C. 30301, et seq.***

17                    (3) ***When necessary to comply with a lawful court order, judicial warrant***  
18 ***signed by a judge appointed pursuant to Article III of the United States Constitution, or***  
19 ***lawfully issued subpoena for individual records. Whenever a lawful court order, judicial***  
20 ***warrant, or lawfully issued subpoena for individual records is presented to the director,***  
21 ***only those records, documents, or information specifically sought by such order, warrant,***  
22 ***or subpoena may be disclosed.***

23            (c) ***Except as required for the department to issue or renew a driver's license***  
24 ***that meets federal standards for identification the department, and its agents and***  
25 ***employees, shall not disclose or make accessible in any manner records or information that***  
26 ***it maintains to any agency that primarily enforces immigration law or to any employee or***  
27 ***agent of such agency unless the department is presented with a lawful court order or***  
28 ***judicial warrant signed by a judge appointed pursuant to Article III of the United States***  
29 ***constitution. Upon receiving a request for such records or information from an agency that***  
30 ***primarily enforces immigration law, the director shall notify the individual about whom***

1 *such information was requested no later than 3 days after such request of the request and*  
2 *the identity of the agency that made the request.*

3 *(d) The department shall require any person or entity that receives or has*  
4 *access to records or information from the department to certify to the department before*  
5 *such receipt or access that such person or entity shall neither use such records or*  
6 *information for civil immigration purposes nor disclose such records or information to any*  
7 *agency that primarily enforces immigration law or to any employee or agent of such an*  
8 *agency unless such disclosure is made pursuant to a cooperative arrangement between city,*  
9 *state, and federal agencies, provided that such arrangement does not enforce immigration*  
10 *laws and the disclosure is limited to the specific records or information being sought*  
11 *pursuant to such arrangement.*

12 *(e) For purposes of this paragraph, the term "agency that primarily enforces*  
13 *immigration law" shall include, but not be limited to, United States Immigration and*  
14 *Customs Enforcement, United States Customs and Border Protection, and any successor*  
15 *agencies having similar duties.*

16 *(f) Any person who discloses records or information in any manner not*  
17 *authorized by this paragraph shall be guilty of a class B misdemeanor. In addition, any*  
18 *person who discloses information in any manner not authorized by this paragraph shall be*  
19 *civily liable in an amount equal to the sum of actual damages sustained by the victim as a*  
20 *result of the disclosure or \$5,000, whichever is greater.*

21 2 Motor Vehicles Records; Violations. Amend RSA 260:14, IX to read as follows:

22 IX.(a) *Except as provided in paragraph III*, a person is guilty of a misdemeanor if such  
23 person knowingly discloses information from a department record to a person known by such person  
24 to be an unauthorized person; knowingly makes a false representation to obtain information from a  
25 department record; or knowingly uses such information for any use other than the use authorized by  
26 the department. In addition, any professional or business license issued by this state and held by  
27 such person may, upon conviction and at the discretion of the court, be revoked permanently or  
28 suspended. Each such unauthorized disclosure, unauthorized use or false representation shall be  
29 considered a separate offense.

30 (b) *Except as provided in paragraph III*, a person is guilty of a class B felony if, in  
31 the course of business, such person knowingly sells, rents, offers, or exposes for sale motor vehicle  
32 records to another person in violation of this section.

33 3 Motor Vehicles; Effect of License. Amend RSA 263:1-c to read as follows:

34 263:1-c Effect of License. A driver's license issued by the state of New Hampshire is a written  
35 declaration to the holder of permission to operate a motor vehicle *and for identification purposes*  
36 *except as provided under the Real ID Act of 2005. No person, business, government, or any*  
37 *entity within the state shall refuse the presentation of a Real ID or non-Real ID driver's*

1 *license as a form of identification; however, a driver's license shall not be considered*  
2 *prima facie evidence of a person's citizenship or immigration status nor eligibility to work*  
3 *in the state.*

4 4 Issuance of Licenses; Application. Amend RSA 263:5, II(d) to read as follows:

5 (d) Applicant's social security number, ~~[if required pursuant to]~~ ***except as provided in***  
6 ***RSA 263:40-a;***

7 5 New Paragraph; Issuance of Licenses; Identification. Amend RSA 263:5-d by inserting after  
8 paragraph III the following new paragraph:

9 IV. Reliable official documentation of 2 forms of identification, including at least one  
10 containing a photograph of the resident, with a certified English translation if the original is in a  
11 language other than English, such as:

12 (a) An original or certified copy of the resident's birth certificate.

13 (b) The resident's federal individual tax identification number.

14 (c) A photo identification issued by the armed forces or the New Hampshire national  
15 guard.

16 (d) The resident's selective service card.

17 (e) The resident's current or expired alien permanent resident card, employment  
18 authorization card, conditional resident card, or any other document issued by the United States  
19 Citizenship and Immigration Service.

20 (f) A completed and approved Form I-246, Stay of Removal Application, issued by the  
21 United States Immigration and Customs Enforcement.

22 (g) A consular report of birth abroad issued by the United States Department of State,  
23 Form FS-240, DS-1350, or FS-545.

24 (h) A valid passport issued by the resident's country of citizenship.

25 (i) An identification card issued by the consulate or embassy of the resident's country of  
26 citizenship.

27 6 Form of License; Social Security Number. Amend RSA 263:40-a, I(a) to read as follows:

28 (a) An applicant for a driver's license who has not previously been licensed to drive a  
29 motor vehicle in this state shall provide his or her social security number in the application ***if***  
30 ***applying for a Real ID driver's license. If the applicant is applying for a non-Real ID***  
31 ***driver's license, he or she may choose to provide his or her social security number on the***  
32 ***application. If the applicant opts not to provide his or her social security number, the***  
33 ***applicant shall pay the fee set forth in RSA 263:42, I-d.*** The applicant shall be given the  
34 opportunity to determine whether to have his or her social security number retained in the records of  
35 the department of safety. The application form shall include a box to check off if the applicant does  
36 not wish to have his or her social security number retained in the records of the department.

37 7 Driver's License Fees. Amend RSA 263:42, I to read as follows:

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1 I. For each original driver's license and examination or driver's license renewal, other than  
2 for a commercial vehicle or motorcycle-\$60 for a Real ID Act compliant license under RSA 263:14-b  
3 or \$50 for each other license; for each license issued under RSA 263:5-f-\$10; for each youth operator's  
4 license and examination-\$10 per year, not to exceed \$50; for each license issued to a nonresident  
5 alien for less than 5 years *pursuant to RSA 263:39-a*-\$10 per year or portion thereof; for each  
6 original commercial driver license and examination or commercial driver license renewal-\$60; for  
7 each commercial driver license reexamination in a one-year period-\$20; for each commercial vehicle  
8 endorsement, renewal of an endorsement, or removal of a restriction-\$10; for each special motorcycle  
9 original license and examination or special motorcycle license renewal-\$50; for each original  
10 motorcycle endorsement-\$25; for each 3-wheeled motorcycle endorsement-\$25; for each motorcycle  
11 endorsement and 3-wheeled motorcycle endorsement renewal-no charge. For each original driver's  
12 license issued, \$5 shall be credited to the driver training fund established by RSA 263:52. Except as  
13 provided in RSA 263:5-f, I, RSA 263:14, and RSA 263:39-a, III, every license shall expire on the  
14 licensee's birthdate in the fifth year following the issuance of such license. No fee collected under  
15 this paragraph shall be refunded once an examination has been taken or a license issued, except as  
16 provided in RSA 263:43.

17 8 New Paragraph; Driver's License Fees. Amend RSA 263:42 by inserting after paragraph I-c  
18 the following new paragraph:

19 I-d. For a driver's license application without a social security number, \$150.

20 9 Effective Date. This act shall take effect 60 days after its passage.