

OFFICE OF THE DIRECTOR
DEPARTMENT OF MOTOR VEHICLES
P.O. BOX 932328
SACRAMENTO, CA 94232-3280



TITLE 13: DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (department) proposes to adopt Sections 16.00, 16.02, 16.04, 16.06, 16.08, 16.10, 16.12 and 16.14 in Chapter 1, Division 1, Article 2.0 of Title 13, California Code of Regulations, relating to driver's licenses.

PUBLIC HEARING

The department has scheduled two public hearings to provide interested parties an opportunity to provide statements, both oral and in writing, on this proposed regulatory action.

June 24, 2014
10:00 a.m. – 4:00 p.m.
Junipero Serra Building
Carmel Room
320 W. Fourth Street
Los Angeles, CA

June 26, 2014
10:00 a.m. – 4:00 p.m.
CalTrans – Region 4
Auditorium
111 Grand Avenue
Oakland, CA

DEADLINE FOR WRITTEN COMMENTS

Any interested party or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M., **JUNE 23, 2014**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to adopt this regulation under the authority granted by Vehicle Code section 1651, in order to implement, interpret, or make specific Vehicle Code sections 1653.5, 12800, 12800.7, 12801 and 12801.9.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department of Motor Vehicles (department) proposes to adopt Sections 16.00, 16.02, 16.04, 16.06, 16.08, 16.10, 16.12, 16.14, and 16.16, in Article 2.0, Chapter 1, Division 1, of Title 13, California Code of Regulations, related to driver licenses.

Assembly Bill 60 (Chapter 524; Statutes of 2013) adopted Vehicle Code section 12801.9, requiring the department to issue an original driver license to a person that is unable to submit satisfactory proof that his or her presence in the United States is authorized under federal law, if he or she meets all other qualifications for licensure and provides satisfactory proof of his or her identity and California residency.

Additionally, AB 60 requires the department to identify those documents that it deems acceptable for purposes of proving identity and California residency and establish procedures for verifying the authenticity of those documents.

The department conducted two public workshops in an effort to discuss with the affected individuals, those documents that they believe could establish identity and/or residency.

The first public workshop was held on January 28 in Sacramento, California, where the conversation focused largely on documents acceptable to providing proof of identity or residency. A second workshop was held on February 13, in Bell, California and was attended by many interested parties and much of the conversation was related to documentation.

After meeting at length with affected parties and advocacy groups, the department determined that the best way to implement the provisions of AB 60, is to provide the standards that the department determines are sufficient to provide identity and residency. Section 15.00 of Title 13, establishes documentation that the department has determined sufficient to establish an applicant's legal presence in the United States for purposes of determining eligibility for driver license issuance. When an applicant is unable to provide the documentation provided in Section 15.00, he or she will be required to meet the documentation requirements in Section 16.04(a) of this proposed action which, as specified, establishes acceptable foreign documents.

When an applicant is unable to meet the requirements of Section 15.00 and Section 16.04(a), he or she will be required to meet the documentation requirements established in Section 16.04(b), which allows the applicant to present two of the following documents:

- A document in Section 16.06(a) that cannot be verified with the issuing agency,
- A valid foreign passport, or
- A U.S. government-issued identification card with a current photograph.

An applicant who is unable to meet the requirements of Section 15.00 and Section 16.04(a) and (b), he or she will be required to meet the documentation requirements established in Section 16.04(c), which allows the applicant to present two of the following documents:

- An expired foreign passport that meets International Civil Aviation Organization (ICAO) standards, with an issue date of 2005 or later,
- A foreign birth certificate that is either issued by a national civil registry within six months of the date of driver license application on the driver license application form and that contains an embedded photograph of the applicant, or is accompanied by an Apostille certification and translated by the consulate of the applicant's country of origin, or
- A U.S. government-issued identification card with a current photograph.

If an applicant is unable to comply with all the requirements above, he or she can submit one of the several documents provided in Section 16.06, which will be subject to a secondary department review conducted by the department's Investigations Division.

In addition to the identification of documents that provide identity and residency, Vehicle Code section 12801.9, requires the department to adopt these requirements through the emergency

rulemaking process. However, the department has determined that, due to the lack of facilities and staffing necessary to accommodate the overwhelming volume of new applicants, the only option is for the department to promulgate regulations through the regular rulemaking process. As the regulatory process progresses, the department will have time to secure field office space and train staff on the new requirements required with the provisions of AB 60 and these regulations.

Policy Statement Overview

(Government Code section 11346.5(a)(3)(C))

This proposed regulatory action will not likely have nonmonetary benefits such as the protection of public health and safety, worker safety, or the environment, as the regulations only specify identity and residency requirements for driver's licenses. The proposed regulatory action may benefit the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government, as the regulatory action implements the requirements of Vehicle Code section 12801.9.

This proposed regulatory action is unlikely to have nonmonetary benefits such as the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government, among other things.

PROBLEMS THIS DEPARTMENT INTENDS TO ADDRESS AND BENEFITS

ANTICIPATED FROM THE REGULATORY ACTION: To make specific the requirements that must be satisfied for issuance of an original State of California driver license to people who are unable to provide satisfactory proof that their presence in the United States is authorized under federal law. These regulations will allow all successfully tested driver license, who have met the department's requirements, to receive an original California driver license.

COMPARABLE FEDERAL AND STATE REGULATIONS: The department has determined that this proposed regulation is not incompatible with existing regulations and there are no related federal regulations.

The department conducted a review of other agencies and found that the states of Colorado, Connecticut, Illinois, Maryland, New Mexico, Nevada, Oregon, Vermont, Utah, Washington, and the District of Columbia currently have laws/regulations governing the issuance of a card granting driving privileges to an applicant who is unable to submit satisfactory proof that the applicant's presence in the United States is authorized under federal law if he or she meets all other qualifications for licensure.

CONSISTENCY AND COMPATIBILITY WITH OTHER STATE REGULATIONS

The department has conducted an evaluation for any regulations on this area and has concluded that these are the only regulations dealing with driver's license issuance, as specified in Vehicle Code section 12801.9. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

DOCUMENTS INCORPORATED BY REFERENCE

The following document is incorporated by reference:

- Secondary Review Referral Notice, form DL 209A (New 2014)

This document will not be published in the California Code of Regulations because it would be impractical and cumbersome to do so; however, this document is readily available to interested parties by contacting the department representative identified below.

ECONOMIC AND FISCAL IMPACT DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- Cost or Savings to Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business other than the current cost of a driver's license.
- Effects on Housing Costs: None.
- Local Agency/School District Mandates: The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Small Business Impact: This proposed action may affect small business.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The department states the following results of its Economic Impact Assessment per Gov. Code sec. 11346.3(b):

The department anticipates that this action may, 1) create but not eliminate jobs, 2) create businesses but not eliminate existing businesses, and 3) expand businesses currently doing business within the state of California. Any business that relies on employees to drive vehicles could benefit by their employees being issued a driver's licenses.

The benefits of the regulation to the health and welfare of California residents and worker safety may exist due to the reduced instances of vehicle impoundment and the resulting financial impact currently experienced by some unlicensed drivers.

The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

The department conducted two pre-notice workshops, pursuant to Government Code section 11346.45. On January 28, 2014, the department conducted a workshop in Sacramento, California. On February 13, 2014, the department conducted a workshop in Bell, California. Both workshops were attended by representatives from immigrant advocacy groups, the insurance industry, public employee unions, as well as future applicants.

The department published notice of each workshop on its internet website and in the California Regulatory Notice Register (Register No. 52-Z and Register No. 6-Z, respectively). Interested parties were notified of the workshops by first class mail, email, and press releases generated by the department.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Brian G. Soublet, Assistant Chief Counsel
Department of Motor Vehicles
Legal Affairs Division
P.O. Box 932382, MS C-244
Sacramento, CA 94232-3820

Any inquiries or comments concerning the proposed rulemaking action requiring more immediate response may use:

Telephone: (916) 657-6469
Facsimile: (916) 657-1204
E-Mail: LADRegulations@dmv.ca.gov

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

Randi Calkins, Regulations Analyst
Telephone: (916) 657-6469

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an Initial Statement of Reasons for the proposed regulatory action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the Express Terms of the proposed regulatory action using underline or italics to indicate additions to, and strikeout to indicate deletions from the California Code of Regulations.

The contact person identified in this notice shall also make available to the public, upon request, the Final Statement of Reasons and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (the Notice of Proposed Regulatory Action, the Initial Statement of Reasons, the revised handbook and Express Terms) may be accessed at www.dmv.ca.gov/about/lad/regactions.htm.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period and the hearing, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Request for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.