HB 374-FN - AS INTRODUCED

2023 SESSION

23-0327
02/08

HOUSE BILL ***374-FN***

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

SPONSORS: Rep. Sykes, Graf. 14; Rep. Telerski, Hills. 11; Rep. Almy, Graf. 17; Rep. Veilleux, Hills. 34; Sen. Watters, Dist 4

COMMITTEE: Transportation

ANALYSIS

This bill prohibits the department of transportation from disclosing any record that identifies whether the type of driver's license that a person holds meets federal standards for identification, prohibits motor vehicle information form being shared with federal immigration enforcement agencies conducting civil investigations, and amends which information is required for driver's license applications.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

23-0327
02/08

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

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

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

1 New Paragraph; Motor Vehicle Information. Amend RSA 260:14 by inserting after paragraph III-d the following new paragraph:

III-e.(a) The department shall not disclose or otherwise make accessible any portion of any record that identifies whether the type of driver's license that a person holds meets federal standards for identification except:

(1) To the person who is the subject of such record.

(2) Where expressly required pursuant to chapter 303 of part A of subtitle VI of Title 49 of the United States Code.

(3) Unless necessary to comply with a lawful court order, judicial warrant signed by a judge appointed pursuant to Article III of the United States Constitution, or a valid subpoena for individual records.

(b) For the purposes of this paragraph, whenever a lawful court order, judicial warrant, or subpoena for individual records is presented to the department, only those records, documents, or information specifically sought by such court order, warrant, or subpoena may be disclosed.

(c) Except as required for the department to issue or renew a driver's license that meets federal standards for identification, the department, and any agent or employee of the department, shall not disclose or make accessible in any manner records or information that it maintains, to any agency that primarily enforces immigration law or to any employee or agent of such agency, unless the department is presented with a lawful court order or judicial warrant signed by a judge appointed pursuant to Article III of the United States Constitution. Upon receiving a request for such records or information from an agency that primarily enforces immigration law, the department shall, no later than 3 days after such request, notify the individual about whom such information was requested, informing such individual of the request and the identity of the agency that made such request.

(d) The department shall require any person or entity that receives or has access to records or information from the department to certify to the department, before such receipt or access, that the person or entity shall not use the records or information for civil immigration purposes or disclose the records or information to any agency that primarily enforces immigration law, unless such disclosure is pursuant to a cooperative arrangement between city, state, or federal agencies in which the arrangement does not enforce immigration law and which disclosure is limited

to the specific records or information being sought pursuant to such arrangement. In addition to any records required to be kept pursuant to 18 U.S.C. section 2721(c), any person or entity certifying pursuant to this paragraph shall keep for a period of 5 years records of all uses and identifying each person or entity that primarily enforces immigration law that received department records or information from such certifying person or entity. Such records shall be maintained in a manner and form prescribed by the department and shall be available for inspection by the department.

(e) For purposes of this subdivision, the term "agency that primarily enforces immigration law" shall include, but not be limited to, United States Immigration and Customs Enforcement and United States Customs and Border Protection, and any successor agencies having similar duties. Any person who discloses records or information in any manner not authorized by this section shall be guilty of a class B misdemeanor. In addition, any person who discloses information in any manner not authorized by this section shall be civilly liable in an amount equal to the sum of actual damages sustained by the victim as a result of the disclosure or $5,000, whichever is greater.

2 Motor Vehicle Records and Certifications. Amend RSA 260:14, III to read as follows:

III. [~~Motor~~] ***Except as limited by this section, motor*** vehicle records may be made available pursuant to a court order or in response to a request from a state, a political subdivision of a state, the federal government ***for purposes of criminal investigations***, or a law enforcement agency for use in official business***, provided that motor vehicle records shall not be provided to federal immigration enforcement agencies conducting civil investigations***. The request shall be on a case-by-case basis. Any records received pursuant to this paragraph shall not be further transferred or otherwise made available to any other person or listed entity not authorized under this paragraph. Any records received pursuant to this paragraph shall not be used, further transferred, or otherwise made available to any other person or entity for the purpose of creating or enhancing a federal identification database.

3 Effect of Driver's License. Amend RSA 263:1-c to read as follows:

263:1-c Effect of License. A driver's license issued by the state of New Hampshire is a written declaration to the holder of permission to operate a motor vehicle ***and for identification purpose except as provided for federal purposes under the Real ID Act of 2005, Public Law No: 109-13. No person, business, government, or any entity within the boundaries of the United States shall refuse the presentation of a Real ID or non-Real ID driver's license as a form of identification. However, a driver's license shall not be considered prima facie evidence of a person's citizenship, immigration status, or eligibility to work or vote in the state***.

4 Application for Driver's License. Amend RSA 263:5, II to read as follows:

II. The application for a driver's license shall include the following:

(a) The full name and current mailing and residential address of the license applicant;

(b) A physical description of the applicant, including gender indicated by checking either "M" for "male," "F" for female," or "X" for "other," height, weight, eye and hair color;

(c) Date of birth;

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

(e) Applicant's signature;

(f) Certifications of driver qualification;

(g) Any other information required by the department.

5 New Paragraph; Issuance of Driver's License; Required Identification. Amend RSA 263:5-d by inserting after paragraph III the following new paragraph:

IV. In lieu of producing the aforementioned documentation, a resident may prove his or her identity and age to the department by producing reliable official documentation of 2 forms of identification, including at least one containing a photograph of the resident, with a certified English translation if the original is in a language other than English, such as:

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

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

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

(d) The resident's selective service card.

(e) The resident's current or expired Alien Permanent Resident Card, Employment Authorization Card, Conditional Resident Card, or any other document issued by the United States Citizenship and Immigration Service.

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

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

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

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

6 Social Security Numbers; Application Form Options. Amend RSA 263:40-a, I(a) to read as follows:

I.(a) An applicant for a driver's license who has not previously been licensed to drive a motor vehicle in this state shall provide his or her social security number in the application ***if applying for a Real ID driver's license. If the applicant is applying for a non-Real ID driver's license, he or she may opt out of providing a social security number on the application. If the applicant does not provide his or her social security number, the applicant must pay the fee set forth in RSA 263:42, I(d)***. The applicant shall be given the opportunity to determine

whether to have his or her social security number retained in the records of the department of safety. The application form shall include a box to check off if the applicant does not wish to have his or her social security number retained in the records of the department.

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

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

8 Effective Date. This act shall take effect January 1, 2024.

LBA
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HB 374-FN- FISCAL NOTE
AS INTRODUCED

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

FISCAL IMPACT: [X] State [ ] County [X] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**
Appropriation	$0	$0	$0	$0
Revenue	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	$0	$100,000	Indeterminable Increase	Indeterminable Increase
Funding Source:	[ ] General [ ] Education [X] Highway [X] Other - Restricted - Cost of Collection/Administration*			

*Pursuant to Part II, article 6-a of the New Hampshire constitution, any costs associated with the collection and administration of Highway Funds by the Department of Safety shall be deducted by the Department before such funds are credited to the Highway Fund as unrestricted revenue.

LOCAL:

Revenue	$0	$0	Indeterminable Increase	Indeterminable Increase
Expenditures	$0	$0	$0	$0

METHODOLOGY:

This bill prohibits the Department of Safety from disclosing any records that identifies whether the type of driver's license that a person holds meets federal standards for identification and allows an individual to opt out of providing a social security number if applying for a non-Real ID compliant driver's license. The Department states the charge for an application without a social security number would be $150 (a social security card would still be required for a non-Real ID compliant identification card). The Department states this will generate additional state revenue, beginning in FY 2024, and pursuant to RSA 235:23 ("Apportionment A"), 12 percent of road toll and motor vehicle fees collected are distributed to municipalities in the year following collection, increasing state expenditures and local revenue beginning in FY 2025. The Department also states it will incur one-time costs of $100,000 in FY 2024 to make necessary programming changes to reflect this bill.

AGENCIES CONTACTED:

Department of Safety