

**Introduced by Senator Hueso**February 18, 2015

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An act to add Chapter 8 (commencing with Section 15400) to Division 6 of the Vehicle Code, relating to vehicles.

## LEGISLATIVE COUNSEL'S DIGEST

SB 249, as introduced, Hueso. Vehicles: enhanced driver's license.

Existing law requires the Department of Motor Vehicles, upon proper application, to issue driver's licenses and identification cards.

The federal Western Hemisphere Travel Initiative facilitates travel within the western hemisphere by authorizing the use of enhanced driver's licenses and identification cards meeting specified requirements as travel documents.

This bill would authorize the Department of Motor Vehicles to enter into a memorandum of understanding with a federal agency for the purpose of facilitating travels within the western hemisphere pursuant to the federal Western Hemisphere Travel Initiative through the issuance of an enhanced driver's license, instruction permit, provisional license, or identification card. The bill would authorize the department to issue or renew, upon request, an enhanced driver's license, instruction permit, provisional license, or identification card for specified persons. The bill would require a person applying for the initial issuance or renewal of an enhanced driver's license, instruction permit, provisional license, or identification card to submit, under the penalty of perjury, additional proof of identity, residency, and citizenship that satisfies the requirements of the federal Western Hemisphere Travel Initiative. Because the knowledge of the submission of fraudulent information is a crime, the bill would create a new crime, thereby imposing a state-mandated local program. The bill would, except as specified,

prohibit the disclosure of information submitted to the department. Because a violation of the Vehicle Code is a crime, this bill would impose a state-mandated local program.

The bill would prohibit an employer from requiring an employee to apply for, or use, an enhanced driver's license or identification card as a condition of employment or to discriminate or otherwise retaliate against an employee who refuses to apply for, or use, an enhanced driver's license or identification card. Because a violation of this provision would be a crime, this bill would impose a state-mandated local program.

The bill would also require the department to submit an annual report to specified committees of the Legislature on the implementation of the enhanced driver's license and identification card. The bill would require a person applying for an enhanced driver's license, instruction permit, provisional license, or identification card to submit an additional application fee. The bill would require the department to set, by regulation, the application fee in an amount not to exceed the reasonable regulatory cost of issuing or renewing the license, permit, or identification card, or \$55, whichever is less, and to provide specified information to the applicant. The bill would establish the Enhanced Driver's License and Identification Card Subaccount in the Motor Vehicle Account and would require the additional fee to be deposited into the subaccount. The bill would, upon appropriation by the Legislature, require the moneys in the subaccount to be expended by the department in implementing the above provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Each year, more than 45,000,000 personal vehicle passengers
- 4 and 15,000,000 pedestrians enter the state from Mexico.

1 (b) Border crossers have an economic impact on the state,  
2 accounting annually for \$4,005,000,000 in economic benefits and  
3 67,000 jobs.

4 (c) Border wait times during peak hours average 120 minutes  
5 on weekdays and even longer on weekends.

6 (d) More than 8,000,000 trips are lost due to congestion each  
7 year in the San Ysidro Port of Entry, the busiest port of entry in  
8 the world.

9 (e) In the San Diego region alone, this translates into a revenue  
10 loss of nearly \$1,003,000,000, 3,000,000 potential working hours,  
11 35,000 jobs, and \$42,000,000 in wages.

12 (f) It is estimated that border wait times will significantly  
13 increase in the future and an additional 15 minutes in border wait  
14 times will affect productivity in the binational border region by  
15 an additional \$1,000,000,000 in costs and a loss of 134,000 jobs.

16 (g) Because border wait times impede international travel, trade,  
17 and commerce, the Legislature must act to protect California's  
18 jobs and economy.

19 (h) After the 9/11 attacks, the federal government enacted the  
20 federal Western Hemisphere Travel Initiative (WHTI)(Public Law  
21 110-53 and Public Law 108-458), to facilitate entry for United  
22 States citizens and legitimate foreign visitors, while strengthening  
23 United States border security, by requiring United States and  
24 Canadian travelers to present a passport or other documents that  
25 denote identity and citizenship when entering the United States.  
26 The documentation requirements of the WHTI went into effect in  
27 2007 for air travel into the United States and in 2009 for land and  
28 sea travel.

29 (i) In addition to a passport and other documents, the federal  
30 government approved, for cross-border travel, the use of an  
31 enhanced driver's license (EDL), which is a standard state-issued  
32 driver's license that has been enhanced in process, technology,  
33 and security to denote identity and citizenship for purposes of  
34 entering the United States at the land and sea ports of entry. An  
35 EDL contains radio frequency identification (RFID) technology,  
36 which allows information contained in a wireless device or tag to  
37 be read from a distance, and eliminates the need to key in travelers,  
38 translating into 60 percent faster processing than manual queries.

39 (j) Another advantage of an EDL is that it can be used in Ready  
40 Lanes, which were created by the United States Customs and

1 Border Protection and are used as primary vehicle lanes dedicated  
2 to travelers who possess RFID-enabled travel documents.

3 (k) The use of an EDL as an RFID-enabled travel document is  
4 already in place in the States of Washington, New York, Michigan,  
5 and Vermont.

6 (l) The use of EDLs in the state will open the way for the United  
7 States Customs and Border Protection to convert more vehicle  
8 lanes into Ready Lanes, which will decrease border wait times by  
9 an average of 30 minutes and thus provide a significant, long-term  
10 economic benefit to the state, while strengthening border security.

11 SEC. 2. Chapter 8 (commencing with Section 15400) is added  
12 to Division 6 of the Vehicle Code, to read:

13  
14 CHAPTER 8. ENHANCED DRIVER’S LICENSE AND IDENTIFICATION  
15 CARD  
16

17 15400. The department may enter into a memorandum of  
18 understanding with a federal agency for the purposes of obtaining  
19 approval for the issuance of an enhanced driver’s license,  
20 instruction permit, provisional license, or identification card that  
21 is acceptable as proof of identity and citizenship pursuant to the  
22 federal Western Hemisphere Travel Initiative (Public Law 110-53  
23 and Public Law 108-458).

24 15401. (a) Upon the request of an applicant, the department  
25 may issue an initial enhanced driver’s license, instruction permit,  
26 provisional license, or identification card to, or renew the enhanced  
27 driver’s license, instruction permit, provisional license, or  
28 identification card of, a person who satisfies all of the following:

- 29 (1) Is 16 years of age or older.
- 30 (2) Is a resident of this state.
- 31 (3) Is a citizen of the United States.

32 (b) (1) In addition to other information required pursuant to  
33 Chapter 1 (commencing with Section 12500), the applicant shall  
34 submit sufficient proof that meets the requirements of the federal  
35 Western Hemisphere Travel Initiative (Public Law 110-53 and  
36 Public Law 108-458) to establish his or her identity, residency,  
37 and citizenship.

38 (2) The applicant shall certify, under the penalty of perjury, that  
39 the information submitted pursuant to paragraph (1) is true and  
40 correct to the best of the knowledge of the applicant.

1 (3) The applicant shall sign a declaration acknowledging his or  
2 her understanding of radio frequency identification technology.

3 (c) The department shall include, in the enhanced driver's  
4 license, instruction permit, provisional license, or identification  
5 card, reasonable security measures, including tamper-resistant  
6 features to prevent unauthorized duplication or cloning and to  
7 protect against unauthorized disclosure of personal information  
8 regarding the person who is the subject of the license, permit, or  
9 card.

10 (d) The enhanced driver's license, instruction permit, provisional  
11 license, or identification card shall include both of the following:

12 (1) Radio frequency identification technology that will contain  
13 only a randomly assigned number that shall be encrypted if agreed  
14 to by the United States Department of Homeland Security, and  
15 shall not contain any other personal data, biometric information,  
16 or number other than the randomly assigned number.

17 (2) A machine readable zone or barcode that can be  
18 electronically read by the cross border patrol and contains only as  
19 much information as is required by the federal Western Hemisphere  
20 Travel Initiative (Public Law 110-53 and Public Law 108-458) to  
21 permit a border crossing.

22 (e) An enhanced driver's license may be suspended, revoked,  
23 or restricted pursuant to this code.

24 (f) (1) An employer shall not require an employee to apply for,  
25 or use, an enhanced driver's license or identification card as a  
26 condition of employment.

27 (2) An employer shall not discharge an employee or otherwise  
28 discriminate or retaliate against an employee who refuses to apply  
29 for, or use, an enhanced driver's license or identification card.

30 (g) The department shall inform the applicant, either orally or  
31 in writing, that the randomly assigned radio frequency  
32 identification number can be read remotely without the holder's  
33 knowledge, especially if the enhanced driver's license, instruction  
34 permit, provisional license, or identification card is not enclosed  
35 in a protective shield or similar tamper-resistant device.

36 15402. (a) An applicant applying for an initial enhanced  
37 driver's license, instruction permit, provisional license, or  
38 identification card, or renewing an enhanced driver's license,  
39 instruction permit, provisional license, or identification card, shall

1 have his or her photograph and signature captured or reproduced  
2 by the department at the time of application or renewal.

3 (b) The photograph and signature shall only be available to the  
4 United States Customs and Border Protection database or as  
5 required by the United States Department of Homeland Security  
6 for purposes of facilitating the purpose of the federal Western  
7 Hemisphere Travel Initiative (Public Law 110-53 and Public Law  
8 108-458).

9 (c) Except as provided in subdivision (b), the department shall  
10 not disclose the person’s photograph or signature, or copies of a  
11 digital image of any document required pursuant to this chapter.

12 (d) (1) The department shall examine and verify the  
13 genuineness, regularity, and legality of an application and proof  
14 submitted to the department for an initial issuance or renewal of  
15 an enhanced driver’s license, instruction permit, provisional license,  
16 or identification card.

17 (2) The department may require the submission of additional  
18 information to establish identity, residency, and citizenship.

19 (3) The department shall deny an application or renewal of an  
20 enhanced driver’s license, instruction permit, provisional license,  
21 or identification card if the department is not satisfied with the  
22 genuineness, regularity, and legality of the application or  
23 supporting documentation or the truth of any statement contained  
24 in the application or supporting documentation, or for any other  
25 reason authorized by law.

26 (4) An applicant may, pursuant to Article 3 (commencing with  
27 Section 14100) of Chapter 3, appeal the department’s denial of an  
28 application for the issuance or renewal of an enhanced driver’s  
29 license, instruction permit, provisional license, or identification  
30 card.

31 (e) The department shall retain copies or digital images of  
32 documents provided by the person pursuant to this chapter.

33 (f) Notwithstanding subdivision (e), and except as required by  
34 other law, in the case of the denial of an application for the issuance  
35 or renewal of an enhanced driver’s license, instruction permit,  
36 provisional license, or identification card, the department shall  
37 retain the photograph of the applicant and the reason for denial for  
38 not less than one year, unless fraud is suspected, in which case the  
39 applicant’s photograph and the reason for denial shall be retained  
40 for not less than 10 years.

1 (g) The photograph, signature, copies, and digital image of  
2 documents required pursuant to this section are exempt from public  
3 disclosure pursuant to the California Public Records Act (Chapter  
4 3.5 (commencing with Section 6250) of Division 7 of Title 1 of  
5 the Government Code).

6 (h) Except as required by federal law, information submitted  
7 by an applicant pursuant to this chapter shall not be disclosed to  
8 a foreign nation.

9 15403. (a) In addition to fees required pursuant to this division,  
10 a person requesting the initial issuance or renewal of an enhanced  
11 driver's license, instruction permit, provisional license, or  
12 identification card shall submit an additional nonrefundable  
13 application fee with the application. The department shall set, by  
14 regulation, the application fee in an amount not to exceed the  
15 reasonable regulatory cost of issuing or renewing that license,  
16 permit, or identification card, or fifty-five dollars (\$55), whichever  
17 is less.

18 (b) Fees submitted shall be deposited into the Enhanced Driver's  
19 License and Identification Card Subaccount established pursuant  
20 to Section 15404.

21 15404. (a) There is hereby established the Enhanced Driver's  
22 License and Identification Card Subaccount in the Motor Vehicle  
23 Account. Moneys in the subaccount shall, upon appropriation by  
24 the Legislature, be expended by the department to implement this  
25 chapter.

26 (b) Moneys in the subaccount, including any interest accrued,  
27 shall remain in the subaccount at the end of each fiscal year.

28 (c) This chapter is not intended to conflict with any other state  
29 or federal law.

30 15405. The department shall submit an annual report in  
31 compliance with Section 9795 of the Government Code to the  
32 Assembly and Senate Committees on Judiciary, the Senate  
33 Committee on Transportation and Housing, and the Assembly  
34 Committee on Transportation. The report shall include, but not be  
35 limited to, information on the number of enhanced driver's licenses  
36 and identification cards issued, the effect on wait times and traffic  
37 congestion at points of entry, and whether or not there have been  
38 any security or privacy breaches related to the use of the enhanced  
39 driver's licenses and identification cards.

1 SEC. 3. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

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