

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 981

An Act to amend and reenact § 46.2-328.1 of the Code of Virginia, relating to Department of Motor Vehicles; driver's license eligibility.

[S 761]

Approved April 9, 2020

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-328.1 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-328.1. Licenses, permits, and special identification cards to be issued only to United States citizens, legal permanent resident aliens, or holders of valid unexpired nonimmigrant visas; exceptions; renewal, duplication, or reissuance.

A. Notwithstanding any other provision of this title, except as provided in subsection G of § 46.2-345, the Department shall not issue an original license, permit, or special identification card to any applicant who has not presented to the Department, with the application, valid documentary evidence that the applicant is either (i) a citizen of the United States, (ii) a legal permanent resident of the United States, or (iii) a conditional resident alien of the United States.

B. Notwithstanding the provisions of subsection A and the provisions of §§ 46.2-330 and 46.2-345, an applicant who presents in person valid documentary evidence of (i) a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States, (ii) a pending or approved application for asylum in the United States, (iii) entry into the United States in refugee status, (iv) a pending or approved application for temporary protected status in the United States, (v) approved deferred action status, ~~or~~ (vi) a pending application for adjustment of status to legal permanent residence status or conditional resident status, *or (vii) a valid, unexpired Employment Authorization Document* may be issued a ~~temporary limited-duration~~ license, permit, or special identification card. Such ~~temporary limited-duration~~ license, permit, or special identification card shall be valid only during the period of time of the applicant's authorized stay in the United States or if there is no definite end to the period of authorized stay a period of one year. No license, permit, or special identification card shall be issued if an applicant's authorized stay in the United States is less than 30 days from the date of application. Any ~~temporary limited-duration~~ license, permit, or special identification card issued pursuant to this subsection shall clearly indicate that it is ~~temporary~~ *valid for a limited period* and shall state the date that it expires. Such a ~~temporary limited-duration~~ license, permit, or *special* identification card may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the ~~temporary limited-duration~~ license, permit, or special identification has been extended by the United States Immigration and Naturalization Service or the Bureau of Citizenship and Immigration Services of the Department of Homeland Security *a federal court or federal agency having jurisdiction over immigration*.

C. Any license, *permit*, or special identification card for which an application has been made for renewal, duplication, or reissuance shall be presumed to have been issued in accordance with the provisions of subsection A, provided that, at the time the application is made, (i) the license, *permit*, or special identification card has not expired or been cancelled, suspended, or revoked or (ii) the license, *permit*, or special identification card has been canceled or suspended as a result of the applicant having been placed under medical review by the Department pursuant to § 46.2-322. The requirements of subsection A shall apply, however, to a renewal, duplication, or reissuance if the Department is notified by a local, state, or federal government agency that the individual seeking such renewal, duplication, or reissuance is neither a citizen of the United States nor legally in the United States.

D. The Department shall cancel any license, permit, or special identification card that it has issued to an individual if it is notified by a federal government agency that the individual is neither a citizen of the United States nor legally present in the United States.

E. For any applicant who presents a document pursuant to this section proving legal presence other than citizenship, the Department shall record and provide to the State Board of Elections monthly the applicant's document number, if any, issued by an agency or court of the United States government.