

# **MODEL LAW ON OFFENSES AND PENALTIES**

**A Report to the AAMVA Board of Directors  
From the Uniform ID Subcommittee**

**August 2003**

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## **UNLAWFUL ACTS**

- (A) It is unlawful use of a driver license or identification card for any person:**
1. To display, cause, or permit to be displayed, or have in possession any surrendered, canceled, revoked, suspended, fictitious, fraudulently altered, or fraudulently obtain a driver license or identification card;
  2. To use a false or fictitious name or date of birth to any police officer or in any application for a driver license or identification card, knowingly make a false statement, knowingly conceal a material fact, or otherwise commit a fraud in any such application;
  3. To lend the person's driver license or identification card to any other person or knowingly permit its use by another;
  4. To display or represent as one's own any driver license or identification card not issued to that person;
  5. To alter any driver license or identification card;
  6. To make, manufacture, produce, sell, barter, or trade a counterfeit driver license or identification card;
  7. To permit any unlawful use of a driver license or an identification card issued to that person;
  8. To fail or refuse to surrender to the [jurisdiction's licensing agency] upon lawful demand any driver license or identification card which has been suspended, revoked, or canceled;
  9. To apply for a more than one driver license from any jurisdiction or to apply for a driver license without disclosing the issuance of a driver license from another jurisdiction and or surrendering such license;
  10. To photograph, photostat, duplicate, manufacture, produce, or in any way reproduce any driver license or identification card or facsimile thereof in such a manner that it could be mistaken for a valid license, or to display or have in possession any such photograph, photostat, duplicate, reproduction, or facsimile unless authorized by law;
  11. To do any act forbidden or fail to perform any act required by this act.

**(B) TEMPORARY PERMIT**

For purposes of this section, “driver license” includes a temporary permit to operate a motor vehicle.

**(C) PENALTIES**

1. A first conviction under this Act is punishable as a misdemeanor by a fine of not less than five hundred (\$500.00) dollars and imprisonment up to six (6) months or both.
2. Notwithstanding Section 1, a conviction under this Act or violation under paragraph A (6) is punishable as a misdemeanor by a fine of not less than two thousand (\$2,000.00) dollars and imprisonment up to one (1) year or both.
3. A second or subsequent conviction under this Act is punishable as a felony.<sup>1</sup>
4. In addition to the penalties provided for in paragraphs 1, 2 & 3, the judge or court convicting a person of any violation under this Act shall order that his or her driver’s license or privilege to operate a motor vehicle be suspended for a period of not less than one (1) year and for not more than \_\_\_\_\_ years.<sup>2</sup>
5. The penalties provided for in paragraphs 1, 2, & 3 do not apply to a minor whose intent was to violate the law restricting alcoholic beverages, tobacco or another privilege denied to a minor in respect to the unlawful acts set out in paragraph (A) (1),(2),(3),(4),(5) or (7).<sup>3</sup>
6. A conviction of a minor under paragraph (A)(1),(2),(3),(4),(5) or (7) is punishable as a misdemeanor by fine not exceeding two hundred & fifty (\$250.00) dollars and in addition the court or judge convicting the minor of any unlawful act under this Act shall order the suspension of his or her driver’s license or privilege to operate a motor vehicle for not less than one (1) year and not more than \_\_\_\_\_ years.<sup>4</sup>

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<sup>1</sup> see attached page

<sup>2</sup> see attached page

<sup>3</sup> see attached page

<sup>4</sup> see attached page

**(D) ADMINISTRATIVE SUSPENSIONS, REVOCATION OR CANCELLATION**

In addition to the penalties set out in paragraph (C) of this section, the driver's license or privilege of a person to operate a motor vehicle shall be suspended for a period of up to \_\_\_\_\_ years or any identification card shall be cancelled by the jurisdiction's issuing agency upon determining that the person:

1. Is not entitled to the issuance of the driver's license or identification card;
2. Has failed to give the required or correct information in the application for a driver's license or identification card;
3. Has committed a fraud or deceit in applying for a driver's license or identification card; or
4. Has committed any unlawful act under this Act.<sup>5</sup>

**(E) CONSIDERING RELEVANT FACTORS IN SENTENCING**

Where a court has convicted a person of an offense under Paragraph (A)(1), (5), (6) or (10) the court imposing sentence on the person shall consider any relevant factor including that the person (a) in relation to commission of the offense had in his possession more than one driver license or identification card and (b) has been previously convicted of any offense in Paragraph (A)<sup>6</sup>

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<sup>5</sup> see attached page

<sup>6</sup> see attached page

## Footnotes:

### Penalties

1. The range of fines for misdemeanors and felonies related to offenses under this model law are left to jurisdictions to determine. Most jurisdictions have a range of fines, which apply to misdemeanors and felonies in existing statutes.
2. This provision requires that the convicting court or judge make a mandatory order of a suspension of the driver's license or privilege to operate a motor vehicle of the convicted person. The minimum order is for a period of one (1) year and the jurisdiction can consider what the maximum period of the order can be.
3. The meaning of a minor in jurisdictional law will most likely be contained in the specific statute governing certain conduct. Reference should be made to the individual statutes under which conduct is prohibited to determine when a person is a minor.
4. This provision provides for a specific monetary penalty for a minor who violates paragraphs (A)(1), (2), (3), (4), (5) or (7). It further provides if a minor is convicted that his or her driver's license or privilege to operate a motor vehicle shall be ordered suspended by the court for a period of not less than one (1) year and up to a maximum of a number of years prescribed by the jurisdiction's law. It is open to the jurisdiction to determine what the length of a court ordered suspension should be.
5. The administrative suspension or revocation of a driver's license or cancellation of an identification card under this paragraph authorizes a jurisdiction's licensing agency to apply a suspension or revocation of the driver's license or privilege to operate a motor vehicle for a period to be set by the jurisdictional law where the person has committed an unlawful act under this Act. Such a suspension can be concurrent or longer than the mandatory order made by a court upon conviction of a person under paragraph (C) (4) or (6). A suspension or revocation of a driver's license or privilege to operate a motor vehicle or cancellation of an identification card can be made where the facts under items (1), (2), (3) of paragraph (D) have been determined by the licensing agency.
6. These penalties and sanctions in the model law are the recommended minimums. Each jurisdiction should consider its own penalty structure and where warranted adjust the penalties accordingly. An increase in the penalty provisions does influence law enforcement, prosecutors and the judiciary in their respective roles to deal with fraud related offenses in a manner that reflects society's denunciation of such conduct.

#### *Recommendation:*

*Where offenses are committed under this Act involving possession of more than one driver license or identification card, jurisdictions should urge law enforcement officers and prosecutors to lay charges in respect to each driver license or identification card. Prosecutors should be requested to seek more than the minimum penalty and ask for longer revocation of license and a term of imprisonment as each case warrants. The prosecutor should have ready access to the defendant's record in order to make a convincing argument for the higher penalty.*

#### *Recommendation:*

*Jurisdictions should rigorously pursue prosecution of persons who have stolen or obtained drivers license or identification card stock or equipment used to issue such documents from a motor vehicle administrative agency under relevant statutes governing theft or stolen property.*