

**MOTOR TRAFFIC (DRIVERS' LICENCES) AMENDMENT
ACT 1988 No. 82**

NEW SOUTH WALES



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SCHEDULE 1—AMENDMENTS



MOTOR TRAFFIC (DRIVERS' LICENCES) AMENDMENT ACT 1988
No. 82

NEW SOUTH WALES



Act No. 82, 1988

An Act to amend the Motor Traffic Act 1909 to make further provision with respect to licences under that Act, and for other purposes. [Assented to 6 December 1988]

See also Motor Vehicle Driving Instructors (Amendment) Act 1988; Tow-truck (Amendment) Act 1988.

Motor Traffic (Drivers' Licences) Amendment 1988

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Motor Traffic (Drivers' Licences) Amendment Act 1988.

Commencement

2. (1) This Act commences on the date of assent, except as provided by subsection (2).

(2) Schedule 1 (3), and section 3 in its application to that provision, commence on a day to be appointed by proclamation.

Amendment of Motor Traffic Act 1909 No. 5

3. The Motor Traffic Act 1909 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 7 (**Unlawfully obtaining or possessing licences etc.**)—

At the end of the section, insert:

(2) A member of the police force or an authorised person—

(a) to whom any licence, or any article resembling a licence, is produced by a person representing it to be the person's licence; and

(b) who reasonably suspects that the licence or article—

(i) has been forged or altered in contravention of this section; or

(ii) is being used in contravention of this section; or

(iii) is unlawfully in the possession of the person who produced it,

may, with no authority other than the provisions of this section, seize the licence or article.

(3) A person by whom any licence or article is produced as referred to in subsection (2) (a) and who fails to provide, at the request of the member of the police force or authorised person to whom it was produced (and on being supplied with adequate materials) a specimen of his or her signature is guilty of an offence under this Act.

*Motor Traffic (Drivers' Licences) Amendment 1988*SCHEDULE 1—AMENDMENTS—*continued*

(4) The grounds on which a reasonable suspicion, sufficient to authorise a seizure under subsection (2), may be formed include (but are not limited to) any of the following:

- (a) a lack of resemblance between the person depicted in a photograph affixed to the licence or article, purporting to be a photograph of a licensee, and the person who produced the licence or article;
- (b) a lack of resemblance between a signature inscribed on the licence or article, purporting to be the signature of a licensee, and a specimen signature provided by the person who produced the licence;
- (c) a refusal by the person, after producing the licence or article, to comply with a request under subsection (3).

(5) A licence or article seized under subsection (2) shall be forwarded to the Commissioner, who—

- (a) on being satisfied that it is a genuine licence that was lawfully in the possession of the person who produced it, shall cause it to be returned, by delivery or by post, to the licensee; or
- (b) on being satisfied that—
 - (i) it was forged or altered in contravention of this section; or
 - (ii) it was being used in contravention of this section; or
 - (iii) it was unlawfully in the possession of the person who produced it,

shall deal with it in such manner as the Commissioner thinks fit.

(6) The holder of a genuine driver's licence which is seized under subsection (2) does not commit any offence merely because he or she is not in possession of the licence at any time after the seizure and before the licence is returned.

(7) In this section, "authorised person" means a person acting in the administration of this Act.

(2) Section 7A (**Offences committed by disqualified drivers etc.**)—

(a) After section 7A (2), insert:

(2A) Subsection (2) (a), (b) and (c) do not apply to the driving of a motor vehicle in circumstances prescribed by the regulations.

(b) Section 7A (3)—

Omit "(b), (d)", insert instead "(b), (c), (d)".

Motor Traffic (Drivers' Licences) Amendment 1988

SCHEDULE 1—AMENDMENTS—*continued*

- (3) Section 10AA (**Effect of disqualification**)—
- (a) Section 10AA (1) (b)—
Omit the paragraph, insert instead:
(b) the person shall, immediately after being convicted or within such time as the court may allow, surrender the licence to the court.
- (b) Section 10AA (2)—
Omit “deliver”, insert instead “surrender”.
- (c) Section 10AA (3)—
After section 10AA (2), insert:
(3) A licence surrendered under this section shall be delivered to the Commissioner.
- (4) Section 11AA (**Grant and renewal of driver's licence**)—
- (a) After section 11AA (3), insert:
(3A) The regulations may make provision for or with respect to the exemption of persons from all or any of the requirements of subsection (3).
- (b) After section 11AA (7), insert:
(8) Without affecting the generality of subsection (7), any negative of, or data capable of being used for reproducing the likeness of a person depicted in, a photograph taken under this section shall be destroyed immediately following the issue of the licence concerned.
(9) A person employed or engaged in connection with any aspect of the production of licences that feature a photograph of the licensee, or otherwise concerned in the administration of this Act, who—
(a) reproduces, by photographic or other means, the likeness of a person that is depicted, or is to be depicted, in a licence; or
(b) causes or permits another person to do so,
otherwise than as required for the purposes of this Act is guilty of an offence under this Act.
- (5) Section 11AD—
After section 11AC, insert:
Demand for production of licence
11AD. (1) A person who (knowing that he or she is not by law authorised to require its production) demands production by another person of that other person's driver's licence is guilty of an offence under this Act.

Motor Traffic (Drivers' Licences) Amendment 1988

SCHEDULE 1—AMENDMENTS—*continued*

(2) For the purposes of this section, the making of a statement that could reasonably be understood, by the person to whom the statement is made, as indicating that that person is being required to produce his or her licence shall be taken to be a demand for its production.

(3) Nothing in this section prohibits a request for production of a licence as a means of evidencing the identity or age of a person—

- (a) in connection with the supply of any goods or services; or
- (b) in connection with the conferring of any right, title or benefit; or
- (c) in other circumstances,

where it is reasonable for the person making the request to require evidence of the other person's identity or age.

*[Minister's second reading speech made in—
Legislative Assembly on 10 November 1988
Legislative Council on 30 November 1988]*

**MOTOR TRAFFIC (DRIVERS' LICENCES) AMENDMENT
BILL 1988**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:

- Motor Vehicle Driving Instructors (Amendment) Bill 1988;
- Tow-truck (Amendment) Bill 1988.

The object of this Bill is to amend the Motor Traffic Act 1909 so as—

- (a) to enable a member of the police force or other authorised person to whom a driver's licence is produced to seize it if it is reasonably suspected of having been forged or altered or of being fraudulently used or unlawfully in the possession of the person who produced it; and
- (b) to enable such a member of the police force or other authorised person to require a person producing a licence to provide a specimen of his or her signature; and
- (c) to enable regulations to be made prescribing circumstances in which a person will not be guilty of an offence by reason of driving a motor vehicle while disqualified from driving, or after the person's licence has been cancelled, or while it is under suspension, or after his or her application for a licence has been refused; and
- (d) to provide for a mandatory 6 months disqualification from holding a licence for persons convicted of driving after their licences have been cancelled or after their applications for licences have been refused; and
- (e) to require the licence of a person who has been disqualified from holding it to be surrendered to the court rather than forwarded directly to the Commissioner for Motor Transport; and
- (f) to make further provision, in the interests of privacy, in relation to drivers' licences, particularly licences that feature a photograph of the licensee.

Motor Traffic (Drivers' Licences) Amendment 1988

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent except for the amendment made by Schedule 1 (3), which commences on a day to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedule of amendments.

SCHEDULE 1—AMENDMENTS

Bogus or "doctored" drivers' licences

Schedule 1 (1) adds new subsections (2)–(7) to section 7 of the Principal Act. The new provisions enable a member of the police force or other authorised person to whom a driver's licence is produced to seize the licence if it appears to be a forgery or to have been altered or used for fraudulent purposes, or to be unlawfully in the possession of the person who produced it. The member of the police force or other such person may require the person producing the licence to provide a specimen of his or her signature for comparison with the signature on the licence. Failure to do so constitutes an offence.

Where a licence is seized it is to be forwarded to the Commissioner for Motor Transport who will deal with it appropriately according to whether it is genuine or not.

The new provisions also state that, if a licence is seized and afterwards confirmed to be genuine, the driver to whom it belongs commits no offence by reason of driving without it until such time as the Commissioner returns it.

Driving while licence cancelled or suspended or after application refused

Schedule 1 (2) (a) amends section 7A of the Principal Act so as to allow the regulations to prescribe circumstances in which it is not an offence for a person to drive after his or her licence has been cancelled, or while it is under suspension, or after his or her application for a licence has been refused. (The circumstances envisaged include, for example, a case where a person whose application for a New South Wales licence has been refused moves to the A.C.T. and there obtains a driver's licence.)

Schedule 1 (2) (b) amends the same section so as to provide for mandatory disqualification from holding a licence, for a period of 6 months, in the case of a person convicted of driving after his or her licence has been cancelled or after his or her application for a licence has been refused. At present the mandatory disqualification applies only to a conviction for driving during a period of disqualification or suspension.

Surrender of licence on disqualification

Schedule 1 (3) amends section 10AA of the Principal Act. The section, which deals with procedure on disqualification from holding a licence by virtue of a conviction, at present requires the convicted driver to deliver his or her licence to the Commissioner. This procedure is varied by the amendment, which provides for surrender of the licence to the convicting court.

Photographic licences

Schedule 1 (4) amends section 11AA of the Principal Act, which relates to licences that feature a photograph of the licensee.

A new subsection (3A) is inserted, enabling the regulations to provide for the exemption of persons from the requirement to be photographed.

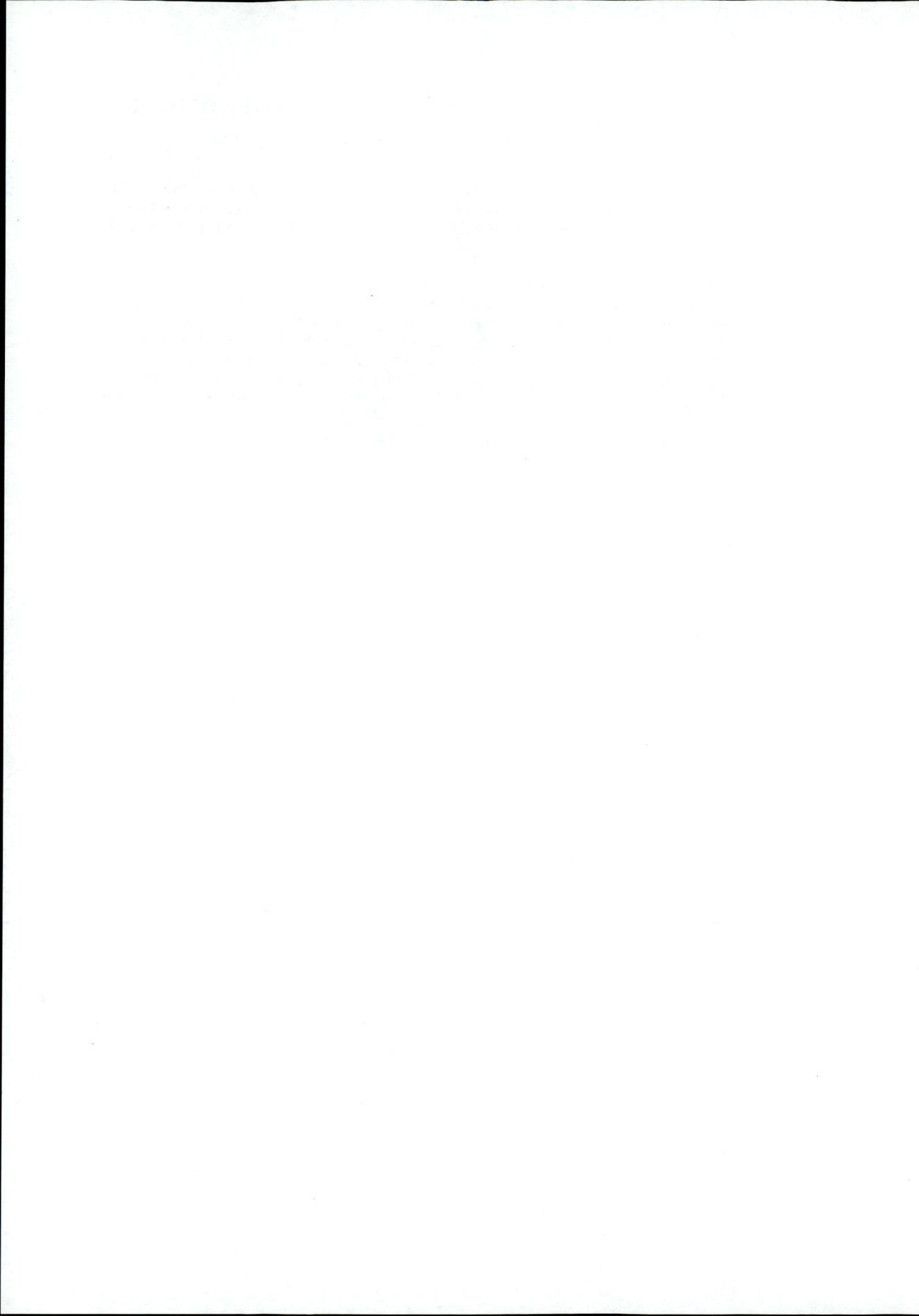
A new subsection (8) is inserted, which requires any photographic negative (or other means of reproducing a photographic image) to be destroyed after a photograph has been incorporated in the licence.

Motor Traffic (Drivers' Licences) Amendment 1988

A new subsection (9) is inserted, which makes it unlawful for persons employed or under contract in connection with the production of photographic licences, or otherwise concerned in the administration of the Principal Act, to copy (or allow a copy to be made of) the photograph on (or to be used on) a licence.

Unauthorised demand for production of licence

Schedule 1 (5) inserts a new section 11AD into the Principal Act, prohibiting the making of any demand for the production by a person of his or her driver's licence, except where the demand is made by a person in that behalf authorised by law. The prohibition does not operate so as to prevent a person supplying goods or services, or a person in other circumstances, from requesting production of a licence as proof of another person's identity or age if it is reasonable to make that request in the circumstances.



MOTOR TRAFFIC (DRIVERS' LICENCES) AMENDMENT BILL 1988

NEW SOUTH WALES



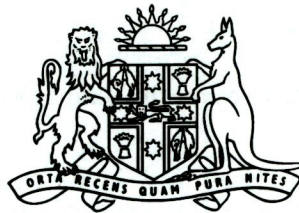
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SCHEDULE 1—AMENDMENTS

**MOTOR TRAFFIC (DRIVERS' LICENCES) AMENDMENT
BILL 1988**

NEW SOUTH WALES



No. , 1988

A BILL FOR

An Act to amend the Motor Traffic Act 1909 to make further provision with respect to licences under that Act, and for other purposes.

See also Motor Vehicle Driving Instructors (Amendment) Bill 1988; Tow-truck (Amendment) Bill 1988.

*Motor Traffic (Drivers' Licences) Amendment 1988***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Motor Traffic (Drivers' Licences) Amendment Act 1988.

5 Commencement

2. (1) This Act commences on the date of assent, except as provided by subsection (2).

(2) Schedule 1 (3), and section 3 in its application to that provision, commence on a day to be appointed by proclamation.

10 Amendment of Motor Traffic Act 1909 No. 5

3. The Motor Traffic Act 1909 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 7 (Unlawfully obtaining or possessing licences etc.)—

15 At the end of the section, insert:

(2) A member of the police force or an authorised person—

(a) to whom any licence, or any article resembling a licence, is produced by a person representing it to be the person's licence; and

20 (b) who reasonably suspects that the licence or article—

(i) has been forged or altered in contravention of this section; or

(ii) is being used in contravention of this section; or

25 (iii) is unlawfully in the possession of the person who produced it,

may, with no authority other than the provisions of this section, seize the licence or article.

30 (3) A person by whom any licence or article is produced as referred to in subsection (2) (a) and who fails to provide, at the request of the member of the police force or authorised person to whom it was produced (and on being supplied with adequate materials) a specimen of his or her signature is guilty of an offence under this Act.

*Motor Traffic (Drivers' Licences) Amendment 1988*SCHEDULE 1—AMENDMENTS—*continued*

(4) The grounds on which a reasonable suspicion, sufficient to authorise a seizure under subsection (2), may be formed include (but are not limited to) any of the following:

- 5 (a) a lack of resemblance between the person depicted in a photograph affixed to the licence or article, purporting to be a photograph of a licensee, and the person who produced the licence or article;
- 10 (b) a lack of resemblance between a signature inscribed on the licence or article, purporting to be the signature of a licensee, and a specimen signature provided by the person who produced the licence;
- (c) a refusal by the person, after producing the licence or article, to comply with a request under subsection (3).

15 (5) A licence or article seized under subsection (2) shall be forwarded to the Commissioner, who—

- (a) on being satisfied that it is a genuine licence that was lawfully in the possession of the person who produced it, shall cause it to be returned, by delivery or by post, to the licensee; or
- 20 (b) on being satisfied that—
- (i) it was forged or altered in contravention of this section; or
- (ii) it was being used in contravention of this section; or
- 25 (iii) it was unlawfully in the possession of the person who produced it,
- shall deal with it in such manner as the Commissioner thinks fit.

30 (6) The holder of a genuine driver's licence which is seized under subsection (2) does not commit any offence merely because he or she is not in possession of the licence at any time after the seizure and before the licence is returned.

(7) In this section, "authorised person" means a person acting in the administration of this Act.

(2) Section 7A (**Offences committed by disqualified drivers etc.**)—

35 (a) After section 7A (2), insert:

(2A) Subsection (2) (a), (b) and (c) do not apply to the driving of a motor vehicle in circumstances prescribed by the regulations.

(b) Section 7A (3)—

Omit "(b), (d)", insert instead "(b), (c), (d)".

*Motor Traffic (Drivers' Licences) Amendment 1988*SCHEDULE 1—AMENDMENTS—*continued*

- (3) Section 10AA (**Effect of disqualification**)—
- (a) Section 10AA (1) (b)—
Omit the paragraph, insert instead:
- 5 (b) the person shall, immediately after being convicted or within such time as the court may allow, surrender the licence to the court.
- (b) Section 10AA (2)—
Omit “deliver”, insert instead “surrender”.
- (c) Section 10AA (3)—
10 After section 10AA (2), insert:
- (3) A licence surrendered under this section shall be delivered to the Commissioner.
- (4) Section 11AA (**Grant and renewal of driver's licence**)—
- (a) After section 11AA (3), insert:
- 15 (3A) The regulations may make provision for or with respect to the exemption of persons from all or any of the requirements of subsection (3).
- (b) After section 11AA (7), insert:
- 20 (8) Without affecting the generality of subsection (7), any negative of, or data capable of being used for reproducing the likeness of a person depicted in, a photograph taken under this section shall be destroyed immediately following the issue of the licence concerned.
- (9) A person employed or engaged in connection with any aspect of the production of licences that feature a photograph of the licensee, or otherwise concerned in the administration of this Act, who—
- 25 (a) reproduces, by photographic or other means, the likeness of a person that is depicted, or is to be depicted, in a licence; or
- 30 (b) causes or permits another person to do so, otherwise than as required for the purposes of this Act is guilty of an offence under this Act.
- (5) Section 11AD—
- 35 After section 11AC, insert:
- Demand for production of licence**
- 11AD. (1) A person who (knowing that he or she is not by law authorised to require its production) demands production by another person of that other person's driver's licence is guilty of
- 40 an offence under this Act.

Motor Traffic (Drivers' Licences) Amendment 1988

SCHEDULE 1—AMENDMENTS—*continued*

5 (2) For the purposes of this section, the making of a statement that could reasonably be understood, by the person to whom the statement is made, as indicating that that person is being required to produce his or her licence shall be taken to be a demand for its production.

(3) Nothing in this section prohibits a request for production of a licence as a means of evidencing the identity or age of a person—

- 10 (a) in connection with the supply of any goods or services; or
(b) in connection with the conferring of any right, title or benefit; or
(c) in other circumstances,

where it is reasonable for the person making the request to require evidence of the other person's identity or age.

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