



**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

IN REPLY REFER TO:

February 11, 2009

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

HOUSE BILL NO. 134

COMMITTEE ON TRANSPORTATION

House Bill 134 will require all applicants for any type of driver's license to submit proof of United States citizenship or legal presence in the United States.

**The Department supports the intent of the bill** but would like to request that language be added to carry out the legal presence law.

We suggest adding another section to this bill, in section 286-111, HRS, to describe the new application requirement and list the acceptable documentary proof of legal presence, as listed in the U.S Resources document by the American Association of Motor Vehicle Administrators in 2005, as follows:

“(e) Every applicant shall provide at least one document as proof of U.S. citizenship, lawful permanent residency or temporary legal presence in the U.S. All documents must be certified copies issued by a federal, state or local government agency of the United States. Acceptable documents that prove U.S. citizenship or lawful immigration status include:

- (1) U.S. state or local government-issued certification of birth.
- (2) Valid U.S. passport.
- (3) Valid foreign passport with appropriate immigration document(s).
- (4) Certificate of U.S. citizenship (N560).
- (5) U.S. certificate of naturalization (N550).
- (6) Valid Department of Homeland Security (DHS)/U.S. Citizenship and Immigration Services (USCIS) I-551, resident alien registration issued since 1997.
- (7) Valid DHS/USCIS I-688, temporary resident identification card.
- (8) Valid DHS/USCIS I-688B or I-766, employment authorization card.
- (9) Valid DHS/USCIS I-571, refugee travel document.
- (10) DHS/USCIS I-797, notice of action.
- (11) DHS/TSA Transportation Worker Identification Credential (TWIC).
- (12) U.S. Department of State reception and placement program assurance form (refugee).
- (13) Any other documents deemed acceptable by the director of transportation.

The Department also recommends that the director of transportation be allowed to adopt rules as necessary for acceptable documents and exception processes.

Finally, we respectfully request that the effective date be one year after the passage of the bill.

DEPARTMENT OF CUSTOMER SERVICES  
**CITY & COUNTY OF HONOLULU**  
DIVISION OF MOTOR VEHICLE, LICENSING AND PERMITS  
ADMINISTRATION  
P.O. BOX 30300  
HONOLULU, HAWAII 96820-0300

MUFI HANNEMANN  
MAYOR



DANA TAKAHARA-DIAS  
ACTING DIRECTOR

DENNIS A KAMIMURA  
LICENSING ADMINISTRATOR

February 9, 2009

The Honorable Joseph M. Souki, Chair  
and Committee Members  
Committee on Transportation  
House of Representatives  
State of Hawaii  
State Capitol, Room 403  
Honolulu, Hawaii 96813

Dear Chair Souki and Committee Members:

Subject: H.B. No. 134, Relating to Motor Vehicle Driver Licensing

The City and County of Honolulu is in favor of H.B. No. 134, which requires an applicant for a driver license and instruction permit to submit proof that the applicant is legally in the United States and provides that legal immigrant licenses expire no later than the date of the legal immigrant's authorized period of stay in the United States.

Hawaii is one of six states that currently do not have a legal presence law. Of these six states, the Legislatures from Maryland and Washington are considering passage of bills requiring legal presence in their respective states.

We recommend that a new SECTION be added to the bill that amends Section 286-111, Hawaii Revised Statutes. The amendment will allow the Director of Transportation to adopt rules that will enable the establishment of a fee that will be charged to all applicants who require verification of legal presence. The current fee that is being charged to the states for inquiry into the Department of Homeland Security, U.S. Citizenship and Immigration Services is \$1.00. The revenue from this fee would be collected by all counties and transmitted to the Director of Transportation who will be billed by the Department of Homeland Security. Not all applicants will be charged this fee. The check of the federal system will be required for those individuals who cannot provide the necessary documents, as prescribed by Department of Transportation rules, to establish legal presence or U.S. citizenship.

The Honorable Joseph M. Souki, Chair  
and Committee Members  
February 9, 2008  
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We also recommend that the bill be amended allowing the Director to adopt rules for exemption from this legal presence requirement and rules that will permit the issuance of a temporary driver license during the period that the applicant's legal presence is being verified.

Finally, we recommend that the effective date of the Bill be amended to January 11, 2010. This will allow time for the Department of Information Technology to establish connectivity with the federal system, programming of the counties computer system, and conduct testing to ensure a smooth transition.

Attached is a draft Bill that incorporates our recommended amendments.

The City and County of Honolulu recommends your favorable action on H.B. No. 134, as amended.

Sincerely,



DENNIS A. KAMIMURA  
Licensing Administrator

Attachment

# H.B. NO. 134

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## A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE DRIVER LICENSING

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 286-104, Hawaii Revised Statutes, is  
2 amended to read as follows:

3    "**§286-104 What persons shall not be licensed.** The examiner of  
4 drivers shall not issue any license [~~hereunder.~~] to any person:

5           (1) [~~To any person whose~~] Whose license has been suspended  
6           by a court of competent jurisdiction during the  
7           suspension period, nor to any person whose license has  
8           been revoked until the expiration of one year after  
9           the date of the revocation, or until the expiration of  
10          the period of revocation specified by law, whichever  
11          is greater, except as provided under sections  
12          286-102.6(d) and 286-102.6(e) for suspensions and  
13          revocations of a provisional license; nor to any  
14          person who, while unlicensed, has within two years  
15          been convicted of operating a vehicle under the  
16          influence of an intoxicant or, prior to  
17          January 1, 2002, of driving under the influence of  
18          alcohol or drugs;

- 1           (2) ~~[To any person who]~~ Who is required by this part to  
2           take an examination, unless the person has  
3           successfully passed the examination;
- 4           (3) ~~[To any person who]~~ Who is required under the motor  
5           vehicle financial responsibility laws of this State to  
6           deposit proof of financial responsibility and who has  
7           not deposited the proof;
- 8           (4) ~~[To any person who]~~ Who the examiner of drivers has  
9           good cause to believe would not be able to operate a  
10          motor vehicle with safety upon the highways by reason  
11          of physical or mental disability;
- 12          (5) ~~[To any person who]~~ Who is under eighteen years of  
13          age; provided that ~~[+]~~ a person
- 14                (A) ~~[A person who]~~ Who is fifteen years and six months  
15                of age may be granted an instruction permit;
- 16                (B) ~~[A person who]~~ Who is at least sixteen and less  
17                than eighteen years of age may be granted a  
18                provisional license upon satisfying the  
19                requirements of section 286-102.6;
- 20                (C) ~~[A person who]~~ Who is at least seventeen and less  
21                than eighteen years of age may be granted a  
22                license upon satisfying the requirements of  
23                section 286-102.6, which license may be suspended

1 or revoked by a judge having jurisdiction over  
2 the holder of the license. Upon revocation of  
3 the license, the person shall not be eligible to  
4 operate a motor vehicle on the highway until the  
5 person is eighteen years of age and has again  
6 satisfied the requirements of sections 286-108  
7 and 286-109; or

8 (D) [~~A person who~~] Who is an emancipated minor may be  
9 granted a license upon satisfaction of all  
10 requirements of this chapter applicable to  
11 persons eighteen years of age or older; or

12 (6) [~~To any person who~~] Who is not in compliance with  
13 section 286-102.5.

14 (7) Who does not submit proof, satisfactory to the  
15 director, that the applicant's presence in the United  
16 States is authorized under federal law. The director may  
17 adopt rules that provide for an exemption of such proof.

18 Any person denied a license under this or any other section  
19 of this part shall have a right of appeal as provided in section  
20 286-129."

21 SECTION 2. Section 286-106, Hawaii Revised Statutes, is  
22 amended to read as follows:

1 "§286-106 Expiration of licenses. (a) Every driver's license  
2 issued under this part, except for a provisional license issued  
3 under section 286-102.6 which shall expire on the date of the  
4 provisional licensee's nineteenth birthday, whether an original  
5 issuance or a renewal, shall expire on the first birthday of the  
6 licensee occurring not less than eight years after the date of  
7 the issuance of the license, unless sooner revoked or suspended;  
8 provided that ~~[the]~~:

9 (1) The license shall expire on the first birthday of the  
10 licensee occurring not less than four years after the  
11 date of the issuance if, at the time, the licensee is  
12 twenty-four years of age or younger; ~~[provided further~~  
13 ~~that the]~~

14 (2) The license shall expire on the first birthday of the  
15 licensee occurring not less than two years after the  
16 date of the issuance of the license if, at that time,  
17 the licensee is seventy-two years of age or older [-];  
18 and

19 (3) If the licensee is a legal immigrant, the license  
20 shall expire no later than the licensee's authorized  
21 period of stay in the United States.

22 The examiner of drivers may issue a license for a shorter  
23 period if the licensee has a physical condition or conditions

1 the examiner of drivers reasonably believes may impair the  
2 driver's ability to drive."

3 Section 3. Section 286-110, Hawaii Revised Statutes, is  
4 amended by amending Subsection (c) to read as follows:

5 "(c) If the examiner of drivers is satisfied that the  
6 applicant is qualified to receive an instruction permit, the  
7 examiner of drivers shall issue the permit entitling the  
8 applicant, while having the permit in the applicant's immediate  
9 possession, to drive a motor vehicle upon the highways for a  
10 period of one year; provided that [~~an~~]:

11 (1) An applicant who is registered in a driver training  
12 course shall be issued a temporary instruction permit  
13 for the duration of the course and the termination  
14 date of the course shall be entered on the permit[~~-~~];  
15 and

16 (2) If the person is a legal immigrant, the permit shall  
17 expire no later than the licensee's authorized period  
18 of stay in the United States.

19 A person who is not licensed to operate the category of motor  
20 vehicles to which the driving training course applies shall not  
21 operate a motor vehicle in connection with the driving training  
22 course without a valid temporary instruction permit."

1 SECTION 4. Section 286-111, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§286-111 Application for license, provisional license, or  
4 instruction permit; fees. [Repeal and reenactment on January 9,  
5 2011. L 2005, c 72, §15.] (a) Every application for an  
6 instruction permit, provisional license, or driver's license  
7 shall be made upon a form furnished by the examiner of drivers  
8 and shall be verified by the applicant before a person  
9 authorized to administer oaths. The examiner of drivers and  
10 officers serving under the examiner may administer the oaths  
11 without charge. Each application for an instruction permit for  
12 a category (1), (2), (3), or (4) license shall be accompanied by  
13 a fee to be determined by the council of each county and each  
14 application for a provisional license or driver's license shall  
15 be accompanied by the fee, unless the applicant has already paid  
16 the fee upon application for an instruction permit in the same  
17 county, in which event no fee shall be charged. An additional  
18 fee to be determined by the council of each county shall be  
19 charged and collected upon the issuance of a provisional license  
20 or driver's license. All of the foregoing fees shall become  
21 county realizations.

22 (b) The director shall establish a fee for all driver  
23 license applicants who require verification of presence in the

1 United States through the federal system. The fees collected  
2 shall become state realizations and deposited in the state  
3 highway fund. The State shall reimburse the counties all costs  
4 for administering the program. The amount of reimbursement  
5 shall be determined by the director of transportation.

6 [~~(b)~~] (c) The director of transportation shall establish a  
7 fee schedule for all commercial driver's licensing  
8 examinations. The fees collected for a commercial driver's  
9 license shall become state realizations and deposited in the  
10 state highway fund. The State shall reimburse the counties all  
11 costs for administering the commercial driver's licensing  
12 program. The amount of reimbursement shall be determined by the  
13 director of transportation.

14 [~~(e)~~] (d) Every application shall state the full name,  
15 date of birth, sex, occupation, social security number if the  
16 applicant is eligible for a social security number, the  
17 residence address and business address, if any, of the  
18 applicant, and shall briefly describe the applicant, and shall  
19 state whether the applicant has theretofore been licensed as a  
20 driver, and, if so, when and in what state or country, and  
21 whether any such license has ever been suspended or revoked, or  
22 whether an application has ever been refused, and if so, the  
23 date of and reason for the suspension, revocation, or refusal.

1 (d) If the applicant is not eligible to receive a social  
2 security number, the applicant shall submit, in lieu of  
3 providing proof of social security number pursuant to subsection  
4 (c):

5 (1) A United States Social Security Administration letter  
6 stating that the applicant is ineligible to obtain a  
7 social security number; and

8 (2) Either:

9 (A) A government-issued photo identification document;  
10 or

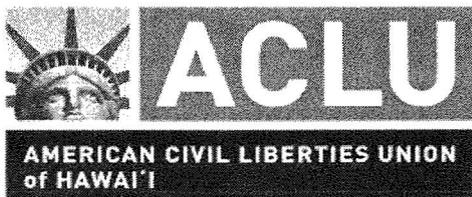
11 (B) Other identification documents as deemed  
12 acceptable by the director.

13  
14 SECTION 5. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 6. This Act shall take effect on January 11, 2010.

17  
18  
19

INTRODUCED BY: \_\_\_\_\_



Via E-mail: TRNtestimony@capitol.hawaii.gov  
Committee: Committee on Transportation  
Hearing Date/Time: Wednesday, February 11, 2008, 8:30 a.m.  
Place: Room 309  
Re: Testimony of the ACLU of Hawaii in Opposition to H.B. 134, Relating to Motor Vehicle Driver Licensing

Dear Chair Souki and Members of the Committee on Transportation:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in opposition to H.B. 134, which seeks to require applicants for driver licenses and instruction permits to submit proof that the applicant is legally in the United States.

H.B. 134 seems designed to move Hawaii towards compliance with the Real ID legislation pushed through Congress in 2005. However, it is not clear whether Real ID will ever be implemented: to date, eleven states have opted out of Real ID, and not a single state has complied with all of the Real ID requirements. Janet Napolitano, Secretary of Homeland Security, has promised to review the Real ID Act in the face of widespread criticism from the states; measures like H.B. 134, which could require substantial additional resources from the State, may not be necessary at all (if Real ID is repealed or substantially altered, as may soon happen).

Real ID aside, H.B. 134 is problematic because it will require county employees at motor vehicle bureaus to make complicated decisions about an individual’s immigration status. These county employees would have to decide whether someone is a citizen or foreigner before issuing a driver’s license – forcing them to distinguish among citizens, permanent resident immigrants – often by making difficult and subtle judgments about complex immigration issues. That would inevitably cause discrimination against U.S. citizens who may “look” or “sound” “foreign” to a county bureaucrat. Such citizens would likely be interrogated more, have their documents scrutinized with suspicion, be treated as suspect, and be denied a license or targeted for further questioning or investigation. Those who did not satisfy the county employee might be denied a license altogether.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation,

American Civil Liberties Union of Hawai'i  
P.O. Box 3410  
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Hon. Rep. Souki, Chair, TRN Committee  
and Members Thereof  
February 12, 2009  
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and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

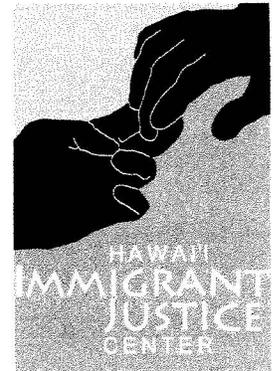
Thank you for this opportunity to testify.

Sincerely,



Daniel M. Gluck  
Senior Staff Attorney

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EQUALITY  
OPPORTUNITY  
HOPE

TESTIMONY FROM: Robin Kobayashi, Executive Director

TO: Representative, Joseph M. Souki, Chair  
Representative, Karen Leinani Awana, Vice Chair  
House Committee on Transportation

HEARING: Wednesday, February 11, 2009, 8:30 a.m. Conf. Room 306

RE: HB 134 RELATING TO MOTOR VEHICLE DRIVER LICENSING

The Hawaii Immigrant Justice Center ("Justice Center"), formerly known as Na Loio, provides comments on HB 134.

The Justice Center is a non-profit that defends and protects the rights of immigrants, especially victims of domestic violence, sexual assault, major crimes, and human trafficking. We provide free legal services, case management, community education, and advocacy in the public interest for indigent immigrants, refugees, and other vulnerable persons in Hawaii. In the past year, the Justice Center helped over 1400 individuals in immigrant-related matters.

The Justice Center takes no position on HB 134. The Justice Center recognizes that applicants for drivers' licenses must already provide documentation to prove that their presence in the United States is lawful.

Thank you for your consideration and time.