

ACT 172

H.B. NO. 1007

A Bill for an Act Relating to Motor Vehicle Driver Licensing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the federal REAL ID Act of 2005, Pub. L. No. 109-13, requires states to comply with federally mandated eligibility criteria in issuing driver's licenses, including the requirement of proof

of lawful presence in the United States. Accordingly, a person who does not submit satisfactory proof of the person's legal presence in the United States, as authorized by federal law, cannot legally operate a motor vehicle. The REAL ID Act, however, specifically allows states to issue driver's licenses that do not comply with the minimum federal use requirements and standards of the REAL ID Act, which is a critical exception. Since 2010 when the State implemented the restrictive identification requirements for driver's licenses, a significant number of residents have become unable to carry out necessary daily activities unless they operate motor vehicles without a license, and therefore, without insurance.

The heightened requirements unduly burden elderly residents, houseless individuals, undocumented immigrants, lawfully present nonimmigrants, and survivors of gender-based violence. The lack of access to licensure hinders the ability to drive safely, legally, and insured to work, to church, to run errands, to drop children off to school and drive them to medical appointments. Women in particular are disproportionately impacted by these requirements because they are often the primary caretakers of children.

In recent years, there has been a significant increase in state efforts to expand access to driver's licenses for persons who cannot provide proof of authorized presence in the United States. Several states now grant access to a driver's license regardless of immigration status and only require that the applicant establish evidence of current residency in the respective state.

The legislature further finds that the lack of access to driver's licensure as a result of restrictive identification requirements poses a serious threat to public safety. Allowing all age-qualifying residents to obtain driver's licenses will improve public safety by ensuring that all drivers are tested for driving skills and able to acquire motor vehicle insurance.

It is not the intent of this Act to jeopardize the State's compliance with the REAL ID Act of 2005 or the receipt of any federal grants or funding. Issuing restricted driver's licenses clearly marked as not acceptable for federal identification purposes for the limited purpose of driving a motor vehicle is permissible and will not jeopardize the State's eligibility for federal grants or funding.

The purpose of this Act is to enable the appropriate licensing authority in each county to issue uniquely identified limited purpose driver's licenses, provisional driver's licenses, and instruction permits to residents who meet the other qualifications for licensure or permit and provide satisfactory proof of their identity and state residency.

SECTION 2. Chapter 286, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§286- Limited purpose driver's license, limited purpose provisional driver's license, and limited purpose instruction permits. (a) Notwithstanding section 286-104(7) to the contrary, every person who submits an application for a driver's license, provisional driver's license, or instruction permit that satisfies the requirements of this chapter except for the applicant's inability or refusal to provide satisfactory proof of authorized presence in the United States under federal law shall be issued a limited purpose driver's license, a limited purpose provisional driver's license, or a limited purpose instruction permit that is uniquely identified in compliance with the REAL ID Act of 2005 upon satisfactory proof to the examiner of drivers of the applicant's identity and residency in the State. The examiner of drivers shall accept various types of documentation for the purpose of establishing the applicant's identity and residency in the State, which may be established by more than one document. Acceptable documentation includes:

- (1) A valid, unexpired consular identification document issued by a consulate from the applicant's country of citizenship or a valid, unexpired passport from the applicant's country of citizenship;
- (2) An original birth certificate or other proof of age, as designated by the examiner of drivers;
- (3) A current home utility bill, lease, or rental agreement, or deed or title to real property in the State, as designated by the examiner of drivers;
- (4) A United States Department of Homeland Security Form I-589, Application for Asylum and for Withholding of Removal;
- (5) An official school or college transcript that includes the applicant's date of birth or a foreign school record that is sealed and includes a photograph of the applicant at the age the record was issued;
- (6) An official school or college identification card that includes the applicant's full name and a photograph of the applicant at the time the identification was issued;
- (7) A United States Department of Homeland Security Form I-20 or Form DS-2019;
- (8) A United States Customs and Immigration Services Deferred Action for Childhood Arrival Approval Letter;
- (9) A valid identification card for health benefits;
- (10) A valid identification card for an assistance or social services program;
- (11) A current voter registration card issued by the State;
- (12) A wage stub issued in the last six months;
- (13) An income tax return filed in the last two years;
- (14) A social security card;
- (15) One of the following documents which, if in a language other than English, shall be accompanied by a certified translation or an affidavit of translation into English:
 - (A) Marriage license or divorce certificate;
 - (B) Foreign federal electoral photo card issued on or after January 1, 1991;
 - (C) Foreign student identification card; or
 - (D) Foreign driver's license; or
- (16) Other proof of Hawaii residency as designated by the director.

(b) Except as otherwise provided in this subsection, every application under this section shall be made upon the form and in the manner required by section 286-111 and shall be accompanied by the fee established for non-limited purpose licenses or permits pursuant to section 286-111. The examiner of drivers shall not require any applicant under this section to furnish information regarding the applicant's eligibility or ineligibility for a social security number. The examiner shall not disclose the identity of any applicant who does not provide a social security card or social security number.

(c) Every limited purpose driver's license, limited purpose provisional driver's license, and limited purpose instruction permit issued pursuant to this section shall on its face and machine readable zone bear the phrase, "Not acceptable for official federal purposes", and on its reverse bear the phrase, "This license is issued only as a license to drive a motor vehicle. It does not establish eligibility for employment, voter registration, or public benefits", and be of a unique design or color indication that clearly distinguishes them from the State's compliant driver's licenses, provisional driver's licenses, and instruction permits. If the United States Department of Homeland Security determines that limited purpose licenses or permits issued pursuant to this section do not satisfy the

requirements of title 6 Code of Federal Regulations section 37.71, adopted pursuant to section 202 of the Real ID Act of 2005, Public Law 109-13, the examiner of drivers, under the direction of the department, shall modify the limited purpose licenses and permits issued pursuant to this section only to the extent necessary to satisfy the requirements of the federal law.

(d) Every limited purpose driver's license and limited purpose provisional driver's license shall expire in accordance with section 286-106, and every limited purpose instruction permit shall expire in accordance with section 286-110.

(e) A limited purpose driver's license or limited purpose provisional driver's license may be renewed in accordance with section 286-107 and reactivated in accordance with section 286-107.5. A limited purpose instruction permit may be renewed in accordance with section 286-110.

(f) It shall be a violation of law to discriminate against a person because the person applied for, was denied, was issued, holds, or presents a limited purpose driver's license, limited purpose provisional driver's license, or limited purpose instruction permit.

(g) A limited purpose license or limited purpose instruction permit issued pursuant to this section shall not be used to consider a person's citizenship or immigration status as a basis for a criminal investigation, arrest, or detention.

(h) Documents and information collected pursuant to an application for, denial of, or issuance of a limited purpose driver's license, limited purpose provisional driver's license, or limited purpose instruction permit shall be confidential and shall not be disclosed by the examiner of drivers or the department except as required by law.

(i) The director shall adopt rules in accordance with chapter 91 to implement this section."

SECTION 3. Section 286-102, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No person, except one ~~exempted~~:

(1) ~~Exempted~~ under section 286-105~~[-one who]~~;

(2) Who holds an instruction permit under section 286-110~~[-one who]~~;

(3) Who holds a limited purpose driver's license, limited purpose provisional driver's license, or limited purpose instruction permit under section 286-___;

(4) Who holds a provisional license under section 286-102.6~~[-one who]~~;

(5) Who holds a commercial driver's license issued under section 286-239~~[-or one who]~~; or

(6) Who holds a commercial driver's license instruction permit issued under section 286-236,

shall operate any category of motor vehicles listed in this section without first being appropriately examined and duly licensed as a qualified driver of that category of motor vehicles."

SECTION 4. Section 286-110, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any person aged fifteen years and six months or more who, except for the person's lack of instruction in operating a motor vehicle, would be qualified to obtain a driver's license issued under this part may apply for a temporary instruction permit or a limited purpose instruction permit at the office of the examiner of drivers in the county in which the applicant resides; provided that the applicant complies with section 286-102.5."

ACT 172

SECTION 5. Section 286-111, Hawaii Revised Statutes, is amended as follows:

1. By amending its title and subsection (a) to read:

“§286-111 Application for license, provisional license, ~~or~~, instruction permit~~s~~, limited purpose driver’s license, limited purpose provisional driver’s license, or limited purpose instruction permit; fees. (a) Every application for an instruction permit, provisional license, ~~or~~ driver’s license, limited purpose driver’s license, limited purpose provisional driver’s license, or limited purpose instruction permit shall be made upon a form furnished by the examiner of drivers and shall be verified by the applicant before a person authorized to administer oaths. The examiner of drivers and officers serving under the examiner may administer the oaths without charge. Each application for an instruction permit for a category (1), (2), (3), or (4) license shall be accompanied by a fee to be determined by the council of each county, and each application for a provisional license or driver’s license shall be accompanied by the fee, unless the applicant has already paid the fee upon application for an instruction permit in the same county, in which event no fee shall be charged. An additional fee to be determined by the council of each county shall be charged and collected upon the issuance of a provisional license or driver’s license. All of the foregoing fees shall become county realizations.”

2. By amending subsection (e) to read:

“(e) ~~¶~~ Except as provided in section 286- , if the applicant is not eligible to receive a social security number, the applicant shall submit, in lieu of providing proof of social security number pursuant to subsection (d):

- (1) A United States Social Security Administration letter stating that the applicant is ineligible to obtain a social security number; and
- (2) Either:
 - (A) A government-issued photo identification document; or
 - (B) Other identification documents as deemed acceptable by the director.”

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 8. This Act shall take effect on January 1, 2016.

(Approved June 30, 2015.)

Note

1. Edited pursuant to HRS §23G-16.5.