

ACT 126

S.B. NO. 159

A Bill for an Act Relating to Voting.

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

SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

“§11- Automatic registration. (a) An application for voter registration shall be a part of the application for issuance of an identification card under section 286-303 and the application for issuance of a driver’s license under section 286-111. Applications for an identification card or driver’s license shall not be processed until the applicant completes the portion of the application related to voter registration and indicates the applicant’s choice of whether to register to vote. If already registered to vote, the applicant shall be offered the opportunity to decline any changes being made to their name and address for voter registration purposes.

The submission of the application for the issuance of an identification card under section 286-303 or the application for a driver’s license under section 286-111 shall be deemed to authorize the examiner of drivers to collect and transmit the information necessary to register the applicant as a voter if the applicant made such a choice or to make changes to the applicant’s voter registration information unless the applicant declined such changes. The examiner of drivers shall electronically transmit the necessary information to the clerk of the county in which the applicant resides, election officials, and the online voter registration system pursuant to subsection (c).

The examiner of drivers shall not transmit any information necessary to register an applicant as a voter if the applicant made a choice not to be registered to vote nor transmit any information necessary to make changes to the applicant’s voter registration information if the applicant declined such changes. The examiner of drivers shall not transmit any information related to a voter application or changes to the applicant’s voter registration information if the applicant presents a document demonstrating a lack of United States citizenship.

(b) Upon receipt of the completed voter registration application or changes to the applicant’s voter registration information transmitted from the examiner of drivers, the clerk shall review and either approve or reject the voter registration application in accordance with this part; provided that approved voter registration applications received from the examiner of drivers pursuant to this section shall be treated as having a valid signature for purposes of section 11-15(c), whether transmitted electronically or by facsimile transmission. Upon the clerk’s approval of the voter registration application or any changes to the voter registration information, the clerk shall proceed to number the application and register the name of the voter in the general county register as provided in section 11-14 or make approved changes to the voter’s existing voter registration information as applicable.

(c) Databases maintained or operated by the counties or the department of transportation containing driver’s license or identification card information, including any documents or images, shall be accessible and provided electronically to election officials and the online voter registration system to allow for the timely processing of voter applications, ensure the integrity of the voter registration polls, and for any other voter registration or election purposes, as determined by the director of transportation.”

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

“§286-A Voter registration. (a) A qualified applicant for a new or renewed motor vehicle driver’s license shall automatically be registered to vote with the clerk of the appropriate county upon completion of the driver’s license application and application for voter registration as required in section 11- if the qualified applicant makes a choice to register to vote on the application form. If already registered to vote, the qualified applicant shall be offered the opportunity to decline any changes being made to their name and address for voter registration purposes.

(b) The submission of the application for voter registration together with the license or permit application shall be deemed to authorize the examiner of drivers to collect and transmit the information necessary to register the qualified applicant as a voter if the applicant made such a choice or to make changes to the qualified applicant’s voter registration information unless the applicant declined such changes. The examiner of drivers shall electronically transmit the necessary information to the clerk of the county in which the qualified applicant resides, election officials, and the online voter registration system pursuant to section 11- (c).

The examiner of drivers shall not transmit any information necessary to register a qualified applicant as a voter if the applicant made a choice not to be registered to vote nor transmit any information necessary to make changes to the qualified applicant’s voter registration information if the applicant declined such changes. The examiner of drivers shall not transmit any information related to a voter application or changes to the applicant’s voter registration information if the applicant presents a document demonstrating a lack of United States citizenship.

(c) For the purposes of this section, “qualified applicant” means a person who qualifies to register as a voter by law.”

SECTION 3. Chapter 286, Hawaii Revised Statutes, is amended by adding a new section to part XVI to be appropriately designated and to read as follows:

“§286-B Voter registration. (a) A qualified applicant for a new, renewal, or duplicate identification card shall automatically be registered to vote with the clerk of the appropriate county upon completion of an application for identification card and the application for voter registration as required by section 11- if the qualified applicant makes a choice to be registered to vote. If already registered to vote, the qualified applicant shall be offered the opportunity to decline any changes being made to their name and address for voter registration purposes.

(b) The submission of the application for voter registration together with the application for the identification card shall be deemed to authorize the examiner of drivers to collect and transmit the information necessary to register the qualified applicant as a voter if the applicant made such a choice or to make changes to the qualified applicant’s voter registration information unless the applicant declined such changes. The examiner of drivers shall electronically transmit the necessary information to the clerk of the county in which the qualified applicant resides, election officials, and the online voter registration system pursuant to section 11- (c).

The examiner of drivers shall not transmit any information necessary to register a qualified applicant as a voter if the applicant made a choice not to be registered to vote nor transmit any information necessary to make changes to

the qualified applicant's voter registration information if the applicant declined such changes. The examiner of drivers shall not transmit any information related to a voter application or changes to the applicant's voter registration information if the applicant presents a document demonstrating a lack of United States citizenship.

(c) For the purposes of this section, "qualified applicant" means a person who qualifies to register as a voter by law."

SECTION 4. Section 286-108, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as provided in section 286-107.5(a), the examiner of drivers shall examine every applicant for a driver's license, except as otherwise provided in this part. The examination shall include a test of:

- (1) The applicant's eyesight and any further physical examination that the examiner of drivers finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways;
- (2) The applicant's ability to understand highway signs regulating, warning, and directing traffic;
- (3) The applicant's knowledge of the rules of the road based on the traffic laws of the State and the traffic ordinances of the county where the applicant resides or intends to operate a motor vehicle; provided that the examination shall specifically test the applicant's knowledge of the provisions of section 291C-121.5 and section 291C-137; and
- (4) The actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

The examinations shall be appropriate to the operation of the category of motor vehicle for which the applicant seeks to be licensed and shall be conducted as required by the director.

The examiner of drivers shall require every applicant to comply with section 286-102.5.

The examiner of drivers may waive the actual demonstration of ability to operate a motorcycle or motor scooter for any person who furnishes evidence, to the satisfaction of the examiner of drivers, that the person has completed the motorcycle education course approved by the director in accordance with section 431:10G-104.

~~[At the time of examination, an application for voter registration by mail shall be made available to every applicant for a driver's license.]~~

For the purposes of this section, the term "applicant" does not include any person reactivating a license under section 286-107.5(a)."

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

"§286-111 Application for license, provisional license, instruction permit, 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, 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.

(b) The director shall establish by rule a standard fee for all driver's license applicants who require verification through the federal system that their presence in the United States is authorized by federal law. The fees collected shall become state realizations and be deposited into the state highway fund. The State shall reimburse the counties all costs of verification through the federal system. The amount of reimbursement shall be determined by the director of transportation.

(c) The director of transportation shall establish a fee schedule for all commercial driver's licensing examinations. The fees collected for a commercial driver's license shall become state realizations and shall be deposited in the state highway fund. The State shall reimburse the counties all costs for administering the commercial driver's licensing program. The amount of reimbursement shall be determined by the director of transportation.

(d) Every application shall state the full name, date of birth, gender designation, occupation, veteran status if applicable (including veterans of the Korean conflict and persons who served in the armed forces of the Republic of Korea, who fought under the command of the United Nations led by the United States, during the Korean conflict and are currently United States citizens) and desired by the applicant, social security number if the applicant is eligible for a social security number, the residence address, and business address, if any, of the applicant, shall briefly describe the applicant, and shall state whether the applicant has theretofore been licensed as a driver, and, if so, when and in what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, or refusal.

The examiner of drivers shall not require documentation for an applicant's selection of gender designation or an applicant's request for an amendment to a gender designation other than the applicant's self-certification of their chosen gender designation; provided that the examiner of drivers shall not be prohibited from requiring documentation that may incidentally show an applicant's birth sex category if ~~such~~ the documentation is necessary to establish that the applicant is legally entitled to a license.

For ~~the~~ purposes of this subsection, "gender designation" shall have the same meaning as in section 286-109(a).

(e) Except as provided in section 286-104.5, 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.

(f) An application for a driver's license shall include the voter registration application required under section 11- ."

SECTION 6. Section 286-303, Hawaii Revised Statutes, is amended to read as follows:

“§286-303 Application for identification card. (a) Application for the identification card shall be made in person by any adult or minor. In the case of a minor under the age of fourteen years, the application shall be made on the minor’s behalf by the parent, or by another individual in loco parentis of the minor who can provide proof of guardianship. In the case of an incompetent individual, the application shall be made by the individual having the custody or control of or maintaining the incompetent individual. A non-compliant identification card shall be issued in accordance with section 286-301.5 for applications not made in person.

(b) Application for renewal of an identification card issued after November 1, 1998, for an individual eighty years of age or older may be done by mailing in or electronically submitting a completed application and fee, if there is no change in name and citizenship status. The director shall adopt rules to allow for renewal by mail or electronic methods for individuals with physical or intellectual disabilities for whom application in person presents a serious burden. For an individual who has a letter from a licensed primary care provider certifying that a severe disability causes the individual to be homebound, the director shall adopt rules allowing for application for renewal of an identification card under this section by means other than in-person appearance. A non-compliant identification card shall be issued in accordance with section 286-301.5 for renewal applications not made in person.

(c) Every application for an identification card or duplicate of an identification card shall be made on a form developed by the director and furnished by the examiner of drivers, signed by the applicant, and signed by the applicant’s parent or guardian if the applicant is under eighteen years of age. The application shall contain the following information:

- (1) Name and complete address, including the number and street name, of the applicant’s permanent residence;
- (2) The applicant’s occupation and any pertinent data relating thereto;
- (3) The applicant’s citizenship status;
- (4) The applicant’s veteran status if applicable and desired by the applicant;
- (5) The applicant’s date and place of birth;
- (6) General description of the applicant, including the applicant’s gender designation, height, weight, hair color, and eye color;
- (7) The applicant’s left and right index fingerprints or, if clear impressions cannot be obtained, other identifying imprints as specified by rules of the director;
- (8) The social security number of the applicant; and
- (9) A digitized frontal photograph of the applicant’s full face.

Each applicant shall present documentary evidence as required by the examiner of drivers of the applicant’s age and identity, and the applicant shall swear or affirm that all information given is true and correct; provided that an applicant shall not be required to provide documentation to prove the applicant’s gender designation other than the applicant’s self-certification of their chosen gender designation; provided further that documentation that may incidentally show an applicant’s birth gender may be required if necessary to establish that the applicant is legally entitled to an identification card.

For purposes of this subsection, “gender designation” shall have the same meaning as in section 286-109(a).

(d) The application also shall state whether the applicant has an advance health-care directive. If the applicant has an advance health-care directive, the identification card shall bear the designation “AHCD”.

(e) ~~[The examiner of drivers, in accordance with section 11-15, at the time of application, shall make available an application for voter registration to every applicant for an identification card who is eligible to register to vote.] An application for an identification card from the examiner of drivers shall include the voter registration application required under section 11-~~

(f) The examiner of drivers shall maintain a suitable, indexed record of all applications.

(g) For the purpose of this section, “AHCD”, which stands for “advance health-care directive”, means an individual instruction in writing, a living will, or a durable power of attorney for health care decisions.”

SECTION 7. Section 286-311, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All information and records acquired by the examiner of drivers under this part shall be confidential~~[-];~~ provided that the examiner may transmit voter registration information as required under sections 11- , 286-A, 286-B, 286-111, and 286-303. All information and records shall be maintained in an appropriate form and in an appropriate office in the custody and under the control of the examiner. The information shall be available only to authorized individuals under ~~[such]~~ restrictions as the director shall prescribe. The examiner may dispose of any application or identification card, or information or record relating to the application or identification card, ~~[which] that~~ does not include a social security number, without regard to chapter 94, whenever, in the examiner’s discretion, retention of the information or record is no longer required or practicable.”

SECTION 8. The examiner of drivers in each county shall cooperate with the office of elections to develop the forms and applications necessary to effectuate the purposes of this Act.

SECTION 9. In codifying the new sections added by sections 2 and 3 and referenced in section 7 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 11. This Act shall take effect on July 1, 2021.

(Approved June 28, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.