

ACT 295

H.B. NO. 1761

A Bill for an Act Relating to Identification Cards.

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

SECTION 1. The legislature finds that the federal REAL ID Act of 2005, P.L. 109-13, requires states to comply with federally mandated eligibility criteria in issuing driver's licenses and identification cards, which are often referred to as "REAL ID compliant". However, the REAL ID Act specifically allows states to issue driver's licenses and identification cards that do not comply with the requirements of the REAL ID Act.

The legislature recognizes that many residents who are young adults, elderly persons, houseless persons, undocumented immigrants, or lawfully present non-immigrants do not drive and are also unable to meet the stringent requirements for a REAL ID-compliant identification card. These residents are therefore unable to access state-issued identification.

The legislature further finds that the coronavirus disease 2019 (COVID-19) pandemic has exacerbated the already difficult, but necessary, process of proving one's identity. Restaurants, theaters, public libraries, and other public venues now require valid proof of vaccination and identity for entry. Before the COVID-19 pandemic, state office buildings, including the Queen Liliuokalani and Princess Ruth Keelikolani buildings, required valid proof of identity for entry.

The legislature notes that pursuant to Act 172, Session Laws of Hawaii 2015, the limited purpose driver's license, limited purpose provisional driver's license, and limited purpose instruction permit were made available to individuals who otherwise satisfy the requirements for a driver's license, provisional driver's license, or instruction permit except for the individual's inability or refusal to provide satisfactory proof of authorized presence in the United States under federal law. The legislature believes that a similar limited purpose identification card would benefit the residents of the State by:

- (1) Helping emergency personnel, including police and emergency response teams, to better identify persons in distress and other persons that these emergency personnel encounter;
- (2) Providing access to public services to individuals previously unable to obtain a government-issued identification card, including having prescriptions filled; picking up packages at post offices; and enjoy-

ing kamaaina discounts at museums, hotels, and public parks, including Hanauma Bay;

- (3) Promoting public safety by easing many undocumented immigrants' fears of interacting with law enforcement while lacking valid identification; and
- (4) Providing access to financial services offered by, and allowing more residents to open accounts at, banks that honor state identification cards, which will, in turn:
 - (A) Increase the personal safety of these residents as they will no longer have to personally carry large amounts of cash; and
 - (B) Make these residents less reliant on check-cashing businesses that may charge fees of up to five per cent or \$5 per transaction.

Accordingly, the purpose of this Act is to authorize the issuance of limited purpose identification cards for individuals who otherwise satisfy the requirements for a government-issued identification card except for the individual's inability or refusal to provide satisfactory proof of authorized presence in the United States under federal law.

SECTION 2. 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- Limited purpose identification cards. (a) Every person who submits an application for an identification card that satisfies the requirements of this part 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 identification card that is uniquely identified as being not in compliance with the REAL ID Act of 2005. 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 United States Department of State Form DS-2019;
- (8) A United States Citizenship 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 six months immediately preceding submittal of the applicable application;
- (13) An income tax return filed in the two years immediately preceding submittal of the applicable application;
- (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;
- (16) A prison identification, certificate of discharge, or order of parole issued by the department of public safety, or a printout prepared by the department of public safety with the applicant's photograph, name, and date of birth; or
- (17) Other proof of Hawaii residency as designated by the director.

(b) Every application under this section shall be made upon the form, and in the manner, required by section 286-303 and be accompanied by the fee established for non-limited purpose identification cards pursuant to section 286-309. The examiner of drivers shall not:

- (1) Require any applicant under this section to furnish information regarding the applicant's eligibility or ineligibility for a social security number; or
- (2) Disclose the identity of any applicant who does not provide a social security card or social security number.

(c) Every limited purpose identification card issued pursuant to this section shall on its face and in a machine readable zone bear the phrase, "Not acceptable for official federal purposes"; be of a unique design or color indication that clearly distinguishes the limited purpose identification card from the State's federally compliant identification cards; and on its reverse bear the phrase, "This identification card is issued only for state identification purposes. It does not establish eligibility for employment, voter registration, or public benefits". If the United States Department of Homeland Security determines that any limited purpose identification card issued pursuant to this section does not satisfy the requirements of title 6 Code of Federal Regulations section 37.71, the examiner of drivers, under the direction of the department of transportation, shall modify the limited purpose identification card issued pursuant to this section; provided that the limited purpose identification card shall only be modified to the extent necessary to satisfy the requirements of the federal law.

(d) Every limited purpose identification card shall expire in accordance with section 286-306.

(e) A limited purpose identification card may be renewed in accordance with section 286-306.

(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 identification card.

(g) A limited purpose identification card 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 identification card shall be confi-

dential and shall not be disclosed by the examiner of drivers or the department of transportation except as required by law.

(i) A person in possession of a REAL ID document shall be ineligible for a limited purpose identification card.

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

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved July 12, 2022.)

Note

1. Edited pursuant to HRS §23G-16.5.