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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. This Act shall be known and may be cited as the  
2 Drivers Safety Act.

3 SECTION 2. Under the federal REAL ID Act of 2005, Pub. L.  
4 No. 109-13, states are required to comply with federally  
5 mandated eligibility criteria in issuing driver's licenses,  
6 including requiring proof of lawful presence in the United  
7 States. As a consequence, an individual who does not submit  
8 satisfactory evidence of lawful presence cannot legally operate  
9 a motor vehicle. The REAL ID Act, however, does allow states to  
10 issue specialized driver's licenses that are not subject to the  
11 minimum documentary requirements for limited non-federal  
12 purposes. Adopting this allowance is critical. Since 2010,  
13 when the State implemented the federal law's restrictive  
14 requirements for proof of authorized presence, the reality has  
15 become that a significant number of Hawaii residents who do not  
16 possess the necessary documentation are operating motor vehicles



1 without a license, and thus without the mandatory insurance, in  
2 order to perform essential daily activities.

3       The heightened documentary requirements unduly burden  
4 elderly individuals, houseless individuals, undocumented  
5 immigrants, lawfully-present nonimmigrants, and survivors of  
6 gender-based violence. The lack of access to licensure hinders  
7 the ability of these residents, regardless of their status, to  
8 drive safely, legally, and with mandatory motor vehicle  
9 insurance while engaging in everyday activities such as going to  
10 work or to church, running errands, dropping-off children at  
11 school, and taking family members to medical appointments. As  
12 women are often the primary caretakers of children, they bear a  
13 disproportionate impact of the federal law.

14       In recent years, there has been a significant increase in  
15 state efforts to expand access to driver's licenses for persons  
16 who cannot provide proof of authorized presence. Ten states,  
17 including California, Connecticut, Illinois, and Maryland, plus  
18 Washington, D.C., and Puerto Rico, now grant access to a  
19 driver's license regardless of immigration status, requiring  
20 instead that the applicant establish evidence of current  
21 residency in the respective jurisdiction. Two of those states,



1 New Mexico and Washington, have successfully operated programs  
2 to allow full driving privileges to residents without  
3 documentation of authorized presence for more than a decade and  
4 two decades, respectively. In 2014, similar legislation was  
5 considered in Hawaii but, ultimately, was not enacted.

6 The legislature finds that prohibiting access to driver's  
7 licenses for a significant portion of Hawaii's residents through  
8 restrictive documentary requirements poses a serious threat to  
9 the safety of the people of this State. It is clear that the  
10 current law needs to be revised and updated to allow for proper  
11 review and certification of all motorists in Hawaii, including  
12 resident immigrants without documentation of authorized  
13 presence. Allowing all age-qualifying residents to obtain  
14 limited purpose driver's licenses will improve public safety by  
15 ensuring that all drivers are tested for driving skills and able  
16 to acquire motor vehicle insurance.

17 It is not the legislature's intent for this Act to endanger  
18 the State's compliance with federal law, including the REAL ID  
19 Act. Issuing restricted driver's licenses for the limited  
20 purpose of driving a motor vehicle, as long as the licenses are  
21 clearly marked as not acceptable for federal identification or



1 other official federal purposes, is permissible under section  
2 202 of the REAL ID Act and will not jeopardize the State's  
3 eligibility for federal grants or funding. The limited purpose  
4 driver's licenses authorized by this Act will have unique  
5 markings that comply with the federal law.

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

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

15 "§286- Limited purpose driver's license, provisional  
16 driver's license, and instruction permits. (a) Notwithstanding  
17 section 286-104(7) to the contrary, every person who submits an  
18 application for a driver's license, provisional driver's  
19 license, or instruction permit that satisfies the requirements  
20 of this chapter except for the applicant's inability or refusal  
21 to provide satisfactory proof of authorized presence in the



1 United States under federal law shall be issued a limited  
2 purpose driver's license, a limited purpose provisional driver's  
3 license, or a limited purpose instruction permit that is  
4 uniquely identified in compliance with the REAL ID Act of 2005  
5 upon provision of satisfactory proof to the examiner of drivers  
6 of the applicant's identity and residency in the State. The  
7 examiner of drivers shall accept various types of documentation  
8 for the purpose of establishing the applicant's identity and  
9 residency in the State, which may be established by more than  
10 one document. Acceptable documentation includes:

- 11       (1) A valid, unexpired consular identification document  
12           issued by a consulate from the applicant's country of  
13           citizenship or a valid, unexpired passport from the  
14           applicant's country of citizenship;
- 15       (2) An original birth certificate;
- 16       (3) A current home utility bill, lease, or rental  
17           agreement, or deed or title to real property in the  
18           State;
- 19       (4) A United States Department of Homeland Security Form  
20           I-589, Application for Asylum and for Withholding of  
21           Removal;



- 1        (5) An official school or college transcript that includes  
2        the applicant's date of birth or a foreign school  
3        record that is sealed and includes a photograph of the  
4        applicant at the age the record was issued;
- 5        (6) An official school or college identification card that  
6        includes the applicant's full name and a photograph of  
7        the applicant at the time the identification was  
8        issued;
- 9        (7) A United States Department of Homeland Security Form  
10       I-20 or Form DS-2019;
- 11       (8) A United States Customs and Immigration Services  
12       Deferred Action for Childhood Arrival Approval Letter;
- 13       (9) A valid identification card for health benefits;
- 14       (10) A valid identification card for an assistance or  
15       social services program;
- 16       (11) A current voter registration card issued by the State;
- 17       (12) A wage stub issued in the last six months;
- 18       (13) An income tax return filed in the last two years;
- 19       (14) A social security card;
- 20       (15) One of the following documents which, if in a language  
21       other than English, shall be accompanied by a



1           certified translation or an affidavit of translation  
2           into English:

3           (A) Marriage license or divorce certificate;

4           (B) Foreign federal electoral photo card issued on or  
5           after January 1, 1991;

6           (C) Foreign student identification card; or

7           (D) Foreign driver's license; or

8           (16) Other proof of Hawaii residency as designated by the  
9           director.

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

20           (c) Every limited purpose driver's license, limited  
21 purpose provisional driver's license, and limited purpose



1 instruction permit issued pursuant to this section shall on its  
2 face bear the phrase, "Not acceptable for official federal  
3 purposes," and on its reverse bear the phrase, "This license is  
4 issued only as a license to drive a motor vehicle. It does not  
5 establish eligibility for employment, voter registration, or  
6 public benefits." If the United States Department of Homeland  
7 Security determines that limited purpose licenses or permits  
8 issued pursuant to this section do not satisfy the requirements  
9 of Section 37.71 of Title 6 of the Code of Federal Regulations,  
10 adopted pursuant to paragraph (11) of subdivision (d) of Section  
11 202 of the Real ID Act of 2005, Public Law 109-13, the examiner  
12 of drivers, under the direction of the department, shall modify  
13 the limited purpose licenses and permits issued pursuant to this  
14 section only to the extent necessary to satisfy the requirements  
15 of the federal law.

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

20 (e) A limited purpose driver's license or limited purpose  
21 provisional driver's license may be renewed in accordance with



1 section 286-107 and reactivated in accordance with section 286-  
2 107.5. A limited purpose instruction permit may be renewed in  
3 accordance with section 286-110.

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

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

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

19 (i) The director shall adopt rules in accordance with  
20 chapter 91 to implement the requirements of this section."



# H.B. NO. 1007

1 SECTION 4. New statutory material is underscored.

2 SECTION 5. This Act shall take effect on January 1, 2016.

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INTRODUCED BY:

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JAN 27 2015



# H.B. NO. 1007

**Report Title:**

Driver's Licenses; Proof of Authorized Presence

**Description:**

Authorizes the issuance of limited purpose driver's licenses, provisional licenses, and instruction permits for individuals who are otherwise eligible for a license or permit but do not present proof of authorized presence in the United States.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

