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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 to individuals who do not  
11 meet the restrictive requirements of REAL ID. Adopting this  
12 allowance is critical. Since 2010, when the State implemented  
13 the federal law's restrictive requirements for proof of  
14 authorized presence, the reality has become that a significant  
15 number of Hawaii residents who do not possess the necessary  
16 documentation are operating motor vehicles without a license,



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

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

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



1 instead that the applicant establish evidence of current  
2 residency in the respective jurisdiction. Two of those states,  
3 New Mexico and Washington, have successfully operated programs  
4 to allow full driving privileges to residents without  
5 documentation of authorized presence for more than a decade and  
6 two decades, respectively. In 2014, similar legislation was  
7 considered in Hawaii but, ultimately, was not enacted.

8       The legislature finds that prohibiting access to driver's  
9 licenses for a significant portion of Hawaii's residents through  
10 restrictive documentary requirements poses a serious threat to  
11 the safety of the people of this State. It is clear that the  
12 current law needs to be revised and updated to allow for proper  
13 review and certification of all motorists in Hawaii, including  
14 resident immigrants without documentation of authorized  
15 presence. Allowing all age-qualifying residents to obtain  
16 limited purpose driver's licenses will improve public safety by  
17 ensuring that all drivers are tested for driving skills and able  
18 to acquire motor vehicle insurance. The legislature also  
19 recognizes that issuance of a distinguishable limited purpose  
20 license may invite discrimination against individuals who  
21 present or possess those licenses and, as part of this Act, has



1 included language to ensure that a resident of Hawaii who  
2 presents a limited purpose license rather than a regular license  
3 shall not be discriminated against based on use of that license.

4       It is not the legislature's intent for this Act to endanger  
5 the State's compliance with federal law, including the REAL ID  
6 Act. Issuing restricted driver's licenses for the limited  
7 purpose of driving a motor vehicle, as long as the licenses are  
8 clearly marked as not acceptable for federal identification or  
9 other official federal purposes, is permissible under section  
10 202 of the REAL ID Act and will not jeopardize the State's  
11 eligibility for federal grants or funding. The limited purpose  
12 driver's licenses authorized by this Act will have unique  
13 markings that comply with the federal law.

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



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

4 "§286- Limited purpose driver's license, provisional  
5 driver's license, and instruction permits. (a) Notwithstanding  
6 section 286-104(7) to the contrary, every person who submits an  
7 application for a driver's license, provisional driver's  
8 license, or instruction permit that satisfies the requirements  
9 of this chapter except for the applicant's inability or refusal  
10 to provide satisfactory proof of authorized presence in the  
11 United States under federal law shall be issued a limited  
12 purpose driver's license, a limited purpose provisional driver's  
13 license, or a limited purpose instruction permit that is  
14 uniquely identified in compliance with the REAL ID Act of 2005  
15 upon provision of satisfactory proof to the examiner of drivers  
16 of the applicant's identity and residency in the State. The  
17 examiner of drivers shall accept various types of documentation  
18 for the purpose of establishing the applicant's identity and  
19 residency in the State, which may be established by more than  
20 one document. Acceptable documentation includes:



- 1        (1) A valid, unexpired consular identification document  
2        issued by a consulate from the applicant's country of  
3        citizenship or a valid, unexpired passport from the  
4        applicant's country of citizenship;
- 5        (2) An original birth certificate;
- 6        (3) A current home utility bill, lease, or rental  
7        agreement, or deed or title to real property in the  
8        State;
- 9        (4) A United States Department of Homeland Security Form  
10       I-589, Application for Asylum and for Withholding of  
11       Removal;
- 12       (5) An official school or college transcript that includes  
13       the applicant's date of birth or a foreign school  
14       record that is sealed and includes a photograph of the  
15       applicant at the age the record was issued;
- 16       (6) An official school or college identification card that  
17       includes the applicant's full name and a photograph of  
18       the applicant at the time the identification was  
19       issued;
- 20       (7) A United States Department of Homeland Security Form  
21       I-20 or Form DS-2019;



- 1        (8) A United States Citizenship and Immigration Services  
2            Deferred Action for Childhood Arrival Approval Letter;
- 3        (9) A valid identification card for health benefits;  
4        (10) A valid identification card for an assistance or  
5            social services program;
- 6        (11) A current voter registration card issued by the State;  
7        (12) A wage stub issued in the last six months;  
8        (13) An income tax return filed in the last two years;  
9        (14) A social security card;
- 10       (15) One of the following documents which, if in a language  
11            other than English, shall be accompanied by a  
12            certified translation or an affidavit of translation  
13            into English:
- 14            (A) Marriage license or divorce certificate;  
15            (B) Foreign federal electoral photo card issued on or  
16            after January 1, 1991;  
17            (C) Foreign student identification card; or  
18            (D) Foreign driver's license; or
- 19        (16) Other proof of Hawaii residency as designated by the  
20            director.



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

11        (c) Every limited purpose driver's license, limited  
12 purpose provisional driver's license, and limited purpose  
13 instruction permit issued pursuant to this section shall on its  
14 face bear the phrase, "Not acceptable for official federal  
15 purposes", and on its reverse bear the phrase, "This license is  
16 issued only as a license to drive a motor vehicle. It does not  
17 establish eligibility for employment, voter registration, or  
18 public benefits." The two phrases shall be printed in a font  
19 size no larger than the smallest font size that appears on the  
20 card. If the United States Department of Homeland Security  
21 determines that limited purpose licenses or permits issued





1 pursuant to this section do not satisfy the requirements of  
2 Section 37.71 of Title 6 of the Code of Federal Regulations,  
3 adopted pursuant to paragraph (11) of subdivision (d) of section  
4 202 of the Real ID Act of 2005, Public Law 109-13, the examiner  
5 of drivers, under the direction of the department, shall modify  
6 the limited purpose licenses and permits issued pursuant to this  
7 section only to the extent necessary to satisfy the requirements  
8 of the federal law.

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

13 (e) A limited purpose driver's license or limited purpose  
14 provisional driver's license may be renewed in accordance with  
15 section 286-107 and reactivated in accordance with section 286-  
16 107.5. A limited purpose instruction permit may be renewed in  
17 accordance with section 286-110.

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



1 instruction permit. Any person who is injured by an unlawful  
2 discriminatory practice under this section may bring an action  
3 consistent with chapters 378, 489, 515, or other applicable law.  
4 Nothing in this section shall be construed to limit any cause of  
5 action based upon any unfair discriminatory practices for which  
6 a remedy is available under state or federal law.

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

11 (h) Documents and information collected pursuant to an  
12 application for, denial of, or issuance of a limited purpose  
13 driver's license, limited purpose provisional driver's license,  
14 or limited purpose instruction permit shall not be considered a  
15 public record, shall be confidential, and shall not be disclosed  
16 to any federal, state, or local entity by the examiner of  
17 drivers or the department except as required by law. The fact  
18 that an individual applied for or possesses a limited purpose  
19 license or permit issued under this section, rather than a  
20 regular license or permit, shall not be recorded, displayed, or  
21 otherwise made evident in any system that allows for information



1 sharing, whether automated or otherwise, with other governmental  
2 entities.

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

5 SECTION 4. New statutory material is underscored.

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



**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. Authorizes causes of action for victims of discrimination because of the limited driver's license. (HB1007 HD1)

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