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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. The legislature finds that the federal REAL ID  
2 Act of 2005, Pub. L. No. 109-13, requires states to comply with  
3 federally mandated eligibility criteria in issuing driver's  
4 licenses, including the requirement of proof of lawful presence  
5 in the United States. Accordingly, a person who does not submit  
6 satisfactory proof of the person's legal presence in the United  
7 States, as authorized by federal law, cannot legally operate a  
8 motor vehicle. The REAL ID Act, however, specifically allows  
9 states to issue driver's licenses that do not comply with the  
10 minimum federal use requirements and standards of the REAL ID  
11 Act, which is a critical exception. Since 2010 when the State  
12 implemented the restrictive identification requirements for  
13 driver's licenses, a significant number of residents have become  
14 unable to carry out necessary daily activities unless they  
15 operate motor vehicles without a license, and therefore, without  
16 insurance.

17           The heightened requirements unduly burden elderly  
18 residents, houseless individuals, undocumented immigrants,



1 lawfully present nonimmigrants, and survivors of gender-based  
2 violence. The lack of access to licensure hinders the ability  
3 to drive safely, legally, and insured to work, to church, to run  
4 errands, to drop children off to school and drive them to  
5 medical appointments. Women in particular are  
6 disproportionately impacted by these requirements because they  
7 are often the primary caretakers of children.

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

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



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

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

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

17           "§286-    Limited purpose driver's license, limited purpose  
18 provisional driver's license, and limited purpose instruction  
19 permits. (a) Notwithstanding section 286-104(7) to the  
20 contrary, every person who submits an application for a driver's  
21 license, provisional driver's license, or instruction permit



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

- 13 (1) A valid, unexpired consular identification document  
14 issued by a consulate from the applicant's country of  
15 citizenship or a valid, unexpired passport from the  
16 applicant's country of citizenship;
- 17 (2) An original birth certificate or other proof of age,  
18 as designated by the examiner of drivers;
- 19 (3) A current home utility bill, lease, or rental  
20 agreement, or deed or title to real property in the  
21 State, as designated by the examiner of drivers;



- 1        (4) A United States Department of Homeland Security Form  
2        I-589, Application for Asylum and for Withholding of  
3        Removal;
- 4        (5) An official school or college transcript that includes  
5        the applicant's date of birth or a foreign school  
6        record that is sealed and includes a photograph of the  
7        applicant at the age the record was issued;
- 8        (6) An official school or college identification card that  
9        includes the applicant's full name and a photograph of  
10       the applicant at the time the identification was  
11       issued;
- 12       (7) A United States Department of Homeland Security Form  
13       I-20 or Form DS-2019;
- 14       (8) A United States Customs and Immigration Services  
15       Deferred Action for Childhood Arrival Approval Letter;
- 16       (9) A valid identification card for health benefits;
- 17       (10) A valid identification card for an assistance or  
18       social services program;
- 19       (11) A current voter registration card issued by the State;
- 20       (12) A wage stub issued in the last six months;
- 21       (13) An income tax return filed in the last two years;



1        (14) A social security card;

2        (15) One of the following documents which, if in a language  
3        other than English, shall be accompanied by a  
4        certified translation or an affidavit of translation  
5        into English:

6        (A) Marriage license or divorce certificate;

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

9        (C) Foreign student identification card; or

10       (D) Foreign driver's license; or

11       (16) Other proof of Hawaii residency as designated by the  
12       director.

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



1 not disclose the identity of any applicant who does not provide  
2 a social security card or social security number.

3 (c) Every limited purpose driver's license, limited  
4 purpose provisional driver's license, and limited purpose  
5 instruction permit issued pursuant to this section shall on its  
6 face and machine readable zone bear the phrase, "Not acceptable  
7 for official federal purposes", and on its reverse bear the  
8 phrase, "This license is issued only as a license to drive a  
9 motor vehicle. It does not establish eligibility for  
10 employment, voter registration, or public benefits", and be of a  
11 unique design or color indication that clearly distinguishes  
12 them from the State's compliant driver's licenses, provisional  
13 driver's licenses, and instruction permits. If the United  
14 States Department of Homeland Security determines that limited  
15 purpose licenses or permits issued pursuant to this section do  
16 not satisfy the requirements of title 6 Code of Federal  
17 Regulations section 37.71, adopted pursuant to section 202 of  
18 the Real ID Act of 2005, Public Law 109-13, the examiner of  
19 drivers, under the direction of the department, shall modify the  
20 limited purpose licenses and permits issued pursuant to this



1 section only to the extent necessary to satisfy the requirements  
2 of the federal law.

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

7 (e) A limited purpose driver's license or limited purpose  
8 provisional driver's license may be renewed in accordance with  
9 section 286-107 and reactivated in accordance with section  
10 286-107.5. A limited purpose instruction permit may be renewed  
11 in accordance with section 286-110.

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

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



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

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

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

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

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

13       (2) Who holds an instruction permit under section  
14 286-110[~~one who~~];

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

18       (4) Who holds a provisional license under section  
19 286-102.6[~~one who~~];

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



1       (6) Who holds a commercial driver's license instruction  
2               permit issued under section 286-236,  
3 shall operate any category of motor vehicles listed in this  
4 section without first being appropriately examined and duly  
5 licensed as a qualified driver of that category of motor  
6 vehicles."

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

9           "(a) Any person aged fifteen years and six months or more  
10 who, except for the person's lack of instruction in operating a  
11 motor vehicle, would be qualified to obtain a driver's license  
12 issued under this part may apply for a temporary instruction  
13 permit or a limited purpose instruction permit at the office of  
14 the examiner of drivers in the county in which the applicant  
15 resides; provided that the applicant complies with section  
16 286-102.5."

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

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

20           "**§286-111 Application for license, provisional license,**  
21 **[~~or~~], instruction permit[~~+~~], limited purpose driver's license,**



1 limited purpose provisional driver's license, or limited purpose  
2 instruction permit; fees. (a) Every application for an  
3 instruction permit, provisional license, [~~or~~] driver's license,  
4 limited purpose driver's license, limited purpose provisional  
5 driver's license, or limited purpose instruction permit shall be  
6 made upon a form furnished by the examiner of drivers and shall  
7 be verified by the applicant before a person authorized to  
8 administer oaths. The examiner of drivers and officers serving  
9 under the examiner may administer the oaths without charge.  
10 Each application for an instruction permit for a category (1),  
11 (2), (3), or (4) license shall be accompanied by a fee to be  
12 determined by the council of each county, and each application  
13 for a provisional license or driver's license shall be  
14 accompanied by the fee, unless the applicant has already paid  
15 the fee upon application for an instruction permit in the same  
16 county, in which event no fee shall be charged. An additional  
17 fee to be determined by the council of each county shall be  
18 charged and collected upon the issuance of a provisional license  
19 or driver's license. All of the foregoing fees shall become  
20 county realizations."

21 2. By amending subsection (e) to read:



1           "(e) [~~ff~~] Except as provided in section 286- , if the  
2 applicant is not eligible to receive a social security number,  
3 the applicant shall submit, in lieu of providing proof of social  
4 security number pursuant to subsection (d):

5           (1) A United States Social Security Administration letter  
6                 stating that the applicant is ineligible to obtain a  
7                 social security number; and

8           (2) Either:

9                 (A) A government-issued photo identification  
10                 document; or

11                 (B) Other identification documents as deemed  
12                 acceptable by the director."

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

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

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



**Report Title:**

Drivers Safety Act; Motor Vehicle Licensing; Proof of Residency;  
Proof of Identity; REAL ID Act of 2005

**Description:**

Creates a limited purpose driver's license, limited purpose provisional driver's license, and limited purpose instruction permit. Provides that limited purpose driver's licenses, limited purpose provisional driver's licenses, and limited purpose instruction permits shall not be acceptable for federal identification and voting purposes. Requires satisfactory proof of identity and Hawaii residency. Effective 1/1/2016. (SD2)

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

