#### CERTIFICATION OF ENROLLMENT

### ENGROSSED SUBSTITUTE HOUSE BILL 2150

Chapter 287, Laws of 1996 (partial veto)

54th Legislature 1996 Regular Session

DRIVERS' LICENSES AND IDENTICARDS--REQUIREMENTS

EFFECTIVE DATE: 6/6/96

Passed by the House March 5, 1996 Yeas 95 Nays 0

### CLYDE BALLARD

# Speaker of the House of Representatives

Passed by the Senate March 1, 1996 Yeas 43 Nays 6

#### CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2150** as passed by the House of Representatives and the Senate on the dates hereon set forth.

#### JOEL PRITCHARD

#### President of the Senate

Approved March 30, 1996, with the exception of sections 1, 2, 3, 4, and 6, which are vetoed.

#### TIMOTHY A. MARTIN

Chief Clerk

FILED

March 30, 1996 - 4:21 p.m.

MIKE LOWRY

Governor of the State of Washington

Secretary of State State of Washington

#### ENGROSSED SUBSTITUTE HOUSE BILL 2150

## AS AMENDED BY THE SENATE

Passed Legislature - 1996 Regular Session

# State of Washington 54th I

54th Legislature

1996 Regular Session

By House Committee on Transportation (originally sponsored by Representatives K. Schmidt, Skinner, R. Fisher, Sterk, Romero, Conway, Smith, Lambert, D. Schmidt, Mitchell, Robertson, Backlund, Ballasiotes, Kremen, Pennington, Hymes, Crouse, Delvin, Buck, Chappell, Ogden, Brown, Scott, Blanton, Lisk, Mulliken, Sheldon, Grant, Chandler, Radcliff, Honeyford, Koster, Huff, L. Thomas, Quall, Johnson, Hickel, Thompson, Cooke, Patterson, Costa and McMahan)

Read first time 01/18/96.

- 1 AN ACT Relating to identification requirements for drivers'
- 2 licenses and identicards; amending RCW 46.20.035, 46.20.055, 46.20.091,
- 3 and 46.20.118; reenacting and amending RCW 46.63.020; adding a new
- 4 section to chapter 46.20 RCW; creating new sections; and prescribing
- 5 penalties.
- 6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- 7 \*NEW SECTION. Sec. 1. This act, authorizing investigation of
- 8 documents submitted with a driver's license application, is the second
- 9 stage of a three-part effort to increase the reliability and security
- 10 of the Washington driver's license document.
- 11 The first stage, accomplished with the enactment of chapter 452,
- 12 Laws of 1993, established procedures for identification documentation
- 13 screening and acceptance in the department of licensing field offices.
- 14 That act established a list of acceptable documents to be used as
- 15 primary identification documents, and provided for departmental review
- 16 of secondary identification documents commonly used to establish
- 17 identity.
- 18 This act enhances the procedures established in chapter 452, Laws
- 19 of 1993, by directing the department of licensing to retain secondary

- identification documentation where necessary to verify the validity of the documents. It further requires a license applicant to sign a statement that identifying documentation is valid. Making a false statement regarding the validity of any identifying information constitutes false swearing, a gross misdemeanor.
- The third stage in the effort to improve the reliability and 6 7 security of the driver's license is the eventual adoption of a new 8 document with minimal potential for forgery. Such a document would 9 potentially include available antifraud safeguards, such as biometric 10 identifiers, and other technological advances as described in section 8 of this act. Development of a proposal for the new driver's license 11 document will follow the release of a recommendation on technology 12 13 currently being formulated by the department of licensing's driver's document advisory committee. The committee's recommendation is 14 15 currently scheduled for release on November 15, 1996.
- 16 \*Sec. 1 was vetoed. See message at end of chapter.
- \*NEW SECTION. Sec. 2. A new section is added to chapter 46.20 RCW to read as follows:
- Every application for an identicard or a Washington state driver's license must contain a statement of implied consent, notifying the applicant that information contained in the application and any documents submitted in support of the application may be made available to law enforcement agencies, or federal, state, and local governmental
- 24 agencies for official purposes.
- 25 \*Sec. 2 was vetoed. See message at end of chapter.
- \*Sec. 3. RCW 46.20.035 and 1993 c 452 s 1 are each amended to read as follows:
- (1) The department may not issue an identicard or a Washington state driver's license, except as provided in RCW 46.20.116, unless the applicant has satisfied the department regarding his or her identity.
- 31 Except as provided in subsection (2) of this section, an applicant has
- 32 not satisfied the identity requirements of this section unless he or
- 33 she displays or provides the department with at least one of the
- 34 following pieces of valid identifying documentation:
- 35 (a) A valid or recently expired driver's license or instruction
- 36 permit that contains the signature, date of birth, and a photograph of
- 37 the applicant;

1 (b) A Washington state identicard or an identification card issued 2 by another state that contains the signature and a photograph of the 3 applicant;

- (c) An identification card issued by the United States, a state, or an agency of either the United States or a state, of a kind commonly used to identify the members of employees of the government agency, that contains the signature and a photograph of the applicant;
- 8 (d) A <u>United States</u> military identification card that contains the 9 signature and a photograph of the applicant;
- 10 (e) A United States passport that contains the signature and a 11 photograph of the applicant;
  - (f) An immigration and naturalization service form that contains the signature and photograph of the applicant; or
  - (g) If the applicant is a minor, an affidavit of the applicant's parent or guardian where the parent or guardian displays or provides at least one piece of identifying documentation as specified in this subsection along with additional documentation establishing the relationship between the parent or guardian and the applicant.
  - (2) A person unable to provide identifying satisfactory documentation as specified in subsection (1) of this section may request that the department review other available documentation in order to ascertain identity. The department may retain documentation submitted for review under this subsection, in order to investigate its validity, except as provided in subsection (3) of this section. The department may waive the requirement for specific identifying documentation under subsection (1) of this section if it finds that other documentation clearly establishes the identity of the applicant. The department may issue a temporary driver's permit as provided in RCW 46.20.055(4), pending the investigation of documentation submitted by an applicant for review.
  - (3) The department may not retain originals of green cards or other documents issued by the immigration and naturalization service, or documents of foreign origin. The department may make photocopies of these documents in order to determine validity. The department may issue to the applicant a temporary driver's permit or temporary identicard as provided in RCW 46.20.055(4) and 46.20.117, pending an investigation of documentation submitted under this subsection.
  - (4) The department may not accept photocopied documents unless they are certified by the issuing authority. The department may not accept

- 1 original documents transmitted by facsimile unless the documents are
- 2 transmitted directly to the department from the issuing authority.
- 3 \*Sec. 3 was vetoed. See message at end of chapter.

- 4 \*Sec. 4. RCW 46.20.055 and 1990 c 250 s 34 are each amended to 5 read as follows:
  - (1) Any person who is at least fifteen and a half years of age may apply to the department for an instruction permit for the operation of any motor vehicle except a motorcycle. Any person sixteen years of age or older, holding a valid driver's license, may apply for an instruction permit for the operation of a motorcycle. The department may in its discretion, after the applicant has successfully passed all parts of the examination other than the driving test, issue to the applicant a driver's or motorcyclist's instruction permit.
  - (a) A driver's instruction permit entitles the permittee while having the permit in immediate possession to drive a motor vehicle upon the public highways for a period of one year when accompanied by a licensed driver who has had at least five years of driving experience and is occupying a seat beside the driver. Except as provided in subsection (c) of this subsection, only one additional permit, valid for one year, may be issued.
  - (b) A motorcyclist's instruction permit entitles the permittee while having the permit in immediate possession to drive a motorcycle upon the public highways for a period of ninety days as provided in RCW 46.20.510(((3))) (2). Except as provided in subsection (c) of this subsection, only one additional permit, valid for ninety days, may be issued.
- (c) The department after investigation may issue a third driver's or motorcyclist's instruction permit when it finds that the permittee is diligently seeking to improve driving proficiency.
  - (2) The department may waive the examination, except as to eyesight and other potential physical restrictions, for any applicant who is enrolled in either a traffic safety education course as defined by RCW 28A.220.020(2) or a course of instruction offered by a licensed driver training school as defined by RCW 46.82.280(1) at the time the application is being considered by the department. The department may require proof of registration in such a course as it deems necessary.
  - (3) The department upon receiving proper application may in its discretion issue a driver's instruction permit to an applicant who is

- at least fifteen years of age and is enrolled in a traffic safety education program which includes practice driving and which is approved and accredited by the superintendent of public instruction. Such instruction permit shall entitle the permittee having the permit in immediate possession to drive a motor vehicle only when an approved instructor or other licensed driver with at least five years of driving experience, is occupying a seat beside the permittee.
- 8 (4) The department may in its discretion issue a temporary driver's 9 permit to an applicant for a driver's license permitting the applicant 10 to drive a motor vehicle for a period not to exceed sixty days while the department is completing its investigation and determination of all 11 12 facts relative to such applicant's right to receive a driver's license, including any necessary investigation into the validity of 13 identification documentation submitted by the applicant. In the case 14 15 of investigation of identification documents under RCW 46.20.035(3), 16 the department may issue a temporary license pending the investigation of documentation submitted by an applicant for review. 17 must be in the permittee's immediate possession while driving a motor 18 19 vehicle, and it shall be invalid when the permittee's license has been 20 issued or for good cause has been refused.
- 21 \*Sec. 4 was vetoed. See message at end of chapter.
- 22 **Sec. 5.** RCW 46.20.091 and 1990 c 250 s 35 are each amended to read 23 as follows:
- 24 (1) Every application for an instruction permit or for an original 25 driver's license shall be made upon a form prescribed and furnished by 26 the department which shall be sworn to and signed by the applicant 27 before a person authorized to administer oaths. An applicant making a false statement under this subsection is quilty of false swearing, a 28 gross misdemeanor, under RCW 9A.72.040. Every application for an 29 instruction permit containing a photograph shall be accompanied by a 30 fee of five dollars. The department shall forthwith transmit the fees 31 collected for instruction permits and temporary drivers' permits to the 32 33 state treasurer.
- 34 (2) Every such application shall state the full name, date of 35 birth, sex, and Washington residence address of the applicant, and 36 briefly describe the applicant, and shall state whether the applicant 37 has theretofore been licensed as a driver or chauffeur, and, if so, 38 when and by what state or country, and whether any such license has

- 1 ever been suspended or revoked, or whether an application has ever been
- 2 refused, and, if so, the date of and reason for such suspension,
- 3 revocation, or refusal, and shall state such additional information as
- 4 the department shall require, including a statement that identifying
- 5 documentation presented by the applicant is valid.
- 6 (3) Whenever application is received from a person previously
- 7 licensed in another jurisdiction, the department shall request a copy
- 8 of such driver's record from such other jurisdiction. When received,
- 9 the driving record shall become a part of the driver's record in this
- 10 state.
- 11 (4) Whenever the department receives request for a driving record
- 12 from another licensing jurisdiction, the record shall be forwarded
- 13 without charge if the other licensing jurisdiction extends the same
- 14 privilege to the state of Washington. Otherwise there shall be a
- 15 reasonable charge for transmittal of the record, the amount to be fixed
- 16 by the director of the department.
- 17 \*Sec. 6. RCW 46.20.118 and 1990 c 250 s 37 are each amended to
- 18 read as follows:
- 19 The department shall maintain a negative file. It shall contain
- 20 negatives of all pictures taken by the department of licensing as
- 21 authorized by RCW 46.20.070 through 46.20.119. Negatives in the file
- 22 shall not be available for public inspection and copying under chapter
- 23 42.17 RCW. The department ((may)) shall make the file available to
- 24 official governmental enforcement agencies to assist in the
- 25 investigation by the agencies of suspected criminal activity. The
- 26 department may also provide a print to the driver's next of kin in the
- 27 event the driver is deceased.
- 28 \*Sec. 6 was vetoed. See message at end of chapter.
- 29 **Sec. 7.** RCW 46.63.020 and 1995 1st sp.s. c 16 s 1, 1995 c 332 s
- 30 16, and 1995 c 256 s 25 are each reenacted and amended to read as
- 31 follows:
- Failure to perform any act required or the performance of any act
- 33 prohibited by this title or an equivalent administrative regulation or
- 34 local law, ordinance, regulation, or resolution relating to traffic
- 35 including parking, standing, stopping, and pedestrian offenses, is
- 36 designated as a traffic infraction and may not be classified as a
- 37 criminal offense, except for an offense contained in the following

- 1 provisions of this title or a violation of an equivalent administrative 2 regulation or local law, ordinance, regulation, or resolution:
- 3 (1) RCW 46.09.120(2) relating to the operation of a nonhighway 4 vehicle while under the influence of intoxicating liquor or a 5 controlled substance;
  - (2) RCW 46.09.130 relating to operation of nonhighway vehicles;
- 7 (3) RCW 46.10.090(2) relating to the operation of a snowmobile 8 while under the influence of intoxicating liquor or narcotics or 9 habit-forming drugs or in a manner endangering the person of another;
- 10 (4) RCW 46.10.130 relating to the operation of snowmobiles;
- 11 (5) Chapter 46.12 RCW relating to certificates of ownership and 12 registration and markings indicating that a vehicle has been destroyed 13 or declared a total loss;
- 14 (6) RCW 46.16.010 relating to initial registration of motor 15 vehicles;
- 16 (7) RCW 46.16.011 relating to permitting unauthorized persons to 17 drive;
- 18 (8) RCW 46.16.160 relating to vehicle trip permits;

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- 19 (9) RCW 46.16.381 (6) or (9) relating to unauthorized use or 20 acquisition of a special placard or license plate for disabled persons' 21 parking;
- 22 (10) RCW 46.20.021 relating to driving without a valid driver's 23 license;
- 24 (11) <u>RCW 46.20.091 relating to false statements regarding a</u> 25 driver's license or instruction permit;
- 26 (12) RCW 46.20.336 relating to the unlawful possession and use of 27 a driver's license;
- 28  $((\frac{(12)}{)})$  (13) RCW 46.20.342 relating to driving with a suspended or 29 revoked license or status;
- 30  $((\frac{(13)}{)})$   $\underline{(14)}$  RCW 46.20.410 relating to the violation of 31 restrictions of an occupational driver's license;
- $((\frac{(14)}{1}))$  (15) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;
- $((\frac{(15)}{)})$  (16) RCW 46.20.750 relating to assisting another person to start a vehicle equipped with an ignition interlock device;
- 36  $((\frac{16}{16}))$  RCW 46.25.170 relating to commercial driver's 37 licenses;
- 38  $((\frac{17}{17}))$  (18) Chapter 46.29 RCW relating to financial 39 responsibility;

- 1  $((\frac{18}{18}))$  (19) RCW 46.30.040 relating to providing false evidence of
- 2 financial responsibility;
- 3 (((19))) (20) RCW 46.37.435 relating to wrongful installation of
- 4 sunscreening material;
- 5  $((\frac{(20)}{(20)}))$  (21) RCW 46.44.180 relating to operation of mobile home
- 6 pilot vehicles;
- 7  $((\frac{(21)}{2}))$  RCW 46.48.175 relating to the transportation of
- 8 dangerous articles;
- 9  $((\frac{(22)}{2}))$  (23) RCW 46.52.010 relating to duty on striking an
- 10 unattended car or other property;
- 11  $((\frac{(23)}{24}))$  RCW 46.52.020 relating to duty in case of injury to
- 12 or death of a person or damage to an attended vehicle;
- $((\frac{24}{1}))$  (25) RCW 46.52.090 relating to reports by repairmen,
- 14 storagemen, and appraisers;
- 15  $((\frac{(25)}{)}))$  (26) RCW 46.52.100 relating to driving under the influence
- 16 of liquor or drugs;
- $((\frac{(26)}{)}))$  (27) RCW 46.52.130 relating to confidentiality of the
- 18 driving record to be furnished to an insurance company, an employer,
- 19 and an alcohol/drug assessment or treatment agency;
- $((\frac{(27)}{2}))$  (28) RCW 46.55.020 relating to engaging in the activities
- 21 of a registered tow truck operator without a registration certificate;
- $((\frac{(28)}{(28)}))$  (29) RCW 46.55.035 relating to prohibited practices by tow
- 23 truck operators;
- (((29))) (30) RCW 46.61.015 relating to obedience to police
- 25 officers, flagmen, or fire fighters;
- 26 (((30))) (31) RCW 46.61.020 relating to refusal to give information
- 27 to or cooperate with an officer;
- (((31))) RCW 46.61.022 relating to failure to stop and give
- 29 identification to an officer;
- (((32))) RCW 46.61.024 relating to attempting to elude
- 31 pursuing police vehicles;
- (((33))) (34) RCW 46.61.500 relating to reckless driving;
- (((34))) (35) RCW 46.61.502 and 46.61.504 relating to persons under
- 34 the influence of intoxicating liquor or drugs;
- 35  $((\frac{35}{35}))$  (36) RCW  $(\frac{46.61.5055}{355})$  (section 5, chapter 332 (Substitute
- 36 Senate Bill No. 5141), Laws of 1995))) 46.61.503 relating to a person
- 37 under age twenty-one driving a motor vehicle after consuming alcohol;
- $((\frac{36}{100}))$  (37) RCW 46.61.520 relating to vehicular homicide by motor
- 39 vehicle;

- 1 (((37))) (38) RCW 46.61.522 relating to vehicular assault;
- 2 (((38))) RCW 46.61.525 relating to negligent driving;
- 3 (((39))) (40) RCW 46.61.527(4) relating to reckless endangerment of
- 4 roadway workers;
- 5 (((40))) (41) RCW 46.61.530 relating to racing of vehicles on 6 highways;
- 7 (((41))) (42) RCW 46.61.685 relating to leaving children in an 8 unattended vehicle with the motor running;
- 9 (((42))) (43) RCW 46.64.010 relating to unlawful cancellation of or 10 attempt to cancel a traffic citation;
- 11 (((43))) RCW 46.64.048 relating to attempting, aiding, 12 abetting, coercing, and committing crimes;
- 13  $((\frac{44}{1}))$  (45) Chapter 46.65 RCW relating to habitual traffic 14 offenders;
- (((45))) (46) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;
- 18 (((46))) (47) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;
- 20  $((\frac{47}{1}))$  (48) Chapter 46.80 RCW relating to motor vehicle wreckers;
- 21 (((48))) (49) Chapter 46.82 RCW relating to driver's training 22 schools;
- 23  $((\frac{49}{}))$  (50) RCW 46.87.260 relating to alteration or forgery of a
- 24 cab card, letter of authority, or other temporary authority issued
- 25 under chapter 46.87 RCW;
- 26 (((50))) RCW 46.87.290 relating to operation of an
- 27 unregistered or unlicensed vehicle under chapter 46.87 RCW.
- 28 <u>NEW SECTION.</u> **Sec. 8.** (1) The legislative transportation committee
- 29 is directed to appoint a consultant to assist the committee in
- 30 undertaking a study of the methods and technology currently available
- 31 to create a driver's license and identicard that cannot be fraudulently
- 32 obtained from the department of licensing, thereby providing the
- 33 public, businesses, and agencies with a more secure driver's license.
- 34 The scope of the study shall be determined by the legislative
- 35 transportation committee, but at a minimum, shall include an
- 36 examination of:
- 37 (a) Improving identity verification with the use of biometric
- 38 systems; determining the type of biometric system to be utilized; and

- 1 examining system costs. A "biometric system" refers to the use of
- 2 identification technology to verify the identity of individuals through
- 3 comparison of unique physical characteristics;

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- (b) Digitized facial photography, and associated system costs;
- 5 (c) Coded information, such as a bar code, and associated system 6 costs; and
- 7 (d) Available technology to prevent alterations of the license and 8 identification cards, and associated costs.
- 9 (2) The consultant and the legislative transportation committee 10 shall work closely with the department of licensing in developing 11 recommendations.
- 12 (3) The legislative transportation committee shall deliver a final 13 report and recommendations to the legislature by December 15, 1996.

Passed the House March 5, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 30, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 1996.

- 1 Note: Governor's explanation of partial veto is as follows:
- "I am returning herewith, without my approval as to sections 1, 2, 3, 4, and 6, Engrossed Substitute House Bill No. 2150 entitled:
- "AN ACT Relating to identification requirements for driver's
  licenses and identicards;"

Engrossed Substitute House Bill No. 2150 represents an effort to improve the integrity of the Washington State driver's license as a universally accepted method of identification. Much of the amendatory language included in this bill contemplates using procedures to validate identities that raise serious civil liberty and due process rights concerns. This is especially true of the new policy established in this bill that permits the Department of Licensing to confiscate a person's documents and turn them over to law enforcement agencies for criminal investigations.

15 Some testimony during legislative hearings raised the possibility 16 that the physical safety of driver's license examiners would be jeopardized if they confiscated identity documents. While this surely 17 18 is only an extreme possibility, confiscating a person's documents at a against the will 19 government window of the applicant 20 significantly the cooperative nature of the licensing process.

21 The legislature, working with the Department of Licensing, needs to 22 reexamine this approach in the hope that better ways to secure the 23 identity of citizens in this state can be found.

Section 3 of the bill permits the Department of Licensing to retain certain documents that are submitted by applicants who are trying to validate their identities prior to receiving an "identicard" or a driver's license that can be used for identification purposes. This is the heart of the problem with this bill, and I have vetoed this section. The amendatory language added by section 4 is tied to the confiscation process established in section 3 and is without purpose if section 3 does not become law.

Sections 2 and 6 relate the power to confiscate documents to criminal investigations. Section 2 requires applicants to give "implied consent" that their documents may be made available "to law enforcement agencies, or federal, state, and local government agencies for official purposes." Section 6 requires that the Department of Licensing shall turn over its files to "government enforcement agencies" to assist in criminal investigations. Present law makes such referrals permissive rather than mandatory. Requiring documents confiscated under the provisions of this bill to be made available for other law enforcement purposes raises serious civil liberty issues and may violate a person's right to due process. We do not need to make our citizens fearful of the driver's license office by granting these extraordinary and unusual powers to license examiners.

Section 1, while appearing to be merely an intent section, refers to the implied consent portions of the bill and specifically directs the Department of Licensing to retain documents. I have vetoed this section also.

Accordingly, I cannot approve sections 1, 2, 3, 4, and 6 of Engrossed Substitute House Bill No. 2150.

Sections 5 and 7 make "false swearing" when applying for a driver's license or identicard a gross misdemeanor under the perjury statutes. This is an appropriate penalty for those who provide false information in an attempt to establish their identities, and I am approving these sections of the bill.

I also have approved section 8 which provides for an expert study, under the auspices of the Legislative Transportation Committee, of the scientific and technological methods available for improving the validity of the driver's licenses and identicards issued by the state. In conjunction with this study, I will ask the Department of Licensing to reexamine its procedures associated with the validation of driver's licenses. If there are procedures or administrative changes that can be made to improve the process of identifying those who seek licenses and identicards, we will make reasonable efforts to improve this process using alternatives that are available without having to resort to the extreme of document confiscation.

The broad issue of whether or not the driver's license should be made into a universally valid identification card needs substantial public debate. The matter of having the state go to considerable expense and trouble to change the nature of our driver's license may be obviated by federal efforts to utilize the Social Security card for similar purposes. Therefore, while I have not vetoed section 8 of Engrossed Substitute House Bill No. 2150, I urge both the Legislative Transportation Committee and the general public to be very circumspect regarding excessive grants of power to government bureaus that may become threats to general liberty.

For these reasons, I have vetoed sections 1, 2, 3, 4, and 6 of Engrossed Substitute House Bill No. 2150.

With the exception of sections 1, 2, 3, 4, and 6, Engrossed Substitute House Bill No. 2150 is approved."