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**SENATE BILL 5434**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senators Wagoner, Braun, Fortunato, Padden, Rivers, Schoesler, Short, Warnick, and Wilson, J.

AN ACT Relating to creating the Washington voter confidence act; amending RCW 29A.08.140, 46.20.155, 46.20.155, 46.20.202, and 29A.08.610; adding a new section to chapter 29A.08 RCW; adding a new section to chapter 29A.84 RCW; creating new sections; providing effective dates; and providing expiration dates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that:

(1) Washingtonians expect voter registration requirements and processes to ensure only eligible people under Article VI, section 1 of the Washington state Constitution and chapter 29A.08 RCW be granted the ability to vote in elections conducted in the state of Washington.

(2) Article VI, section 1 of the Washington state Constitution explicitly states that all persons 18 years of age or older who are United States citizens and who have lived in the state, county, and precinct 30 days immediately preceding the election at which they offer to vote shall be entitled to vote at all elections.

(3) Same-day voter registration laws enable people 18 years of age or older who are United States citizens to submit an address change to their voter registration within 30 days of an election at which they offer to vote.

(4) Voters need additional assurance that only one ballot per voter will be accepted by local elections officials, even if more than one ballot is returned for a voter.

(5) To meet eligibility requirements to vote, including when a person is provided an opportunity to register to vote through obtaining a driver's license or identicard with the department of licensing, a person must submit a signed attestation that they are a United States citizen on their voter registration form.

(6) Financial barriers exist for applicants of enhanced driver's licenses, which require proof of United States citizenship, and disproportionately affect low-income people.

(7) All eligible people in Washington state should have access to voter registration methods that provide the greatest level of confidence that they are eligible to vote.

(8) Local elections officials should have immediate access to comprehensive tools and information to conduct thorough searches of potentially duplicate voter registrations and active registrations of deceased voters.

(9) Misinformation and disinformation, as well as incomplete information about the level of voter fraud committed in Washington state, contributes to an ongoing lack of trust in election integrity.

(10) In order to defer future acts of voter fraud, the legislature requires more detailed accounts of the number of potential cases of improper voting referred to county prosecuting attorneys and of those cases compared to the number of cases found to be fraudulent.

**UPDATE TO REGISTRATION TRANSFER DEADLINE**

**Sec.**  RCW 29A.08.140 and 2020 c 208 s 22 are each amended to read as follows:

(1) In order to vote in any primary, special election, or general election, a person who is not registered to vote in Washington must:

(a) Submit a registration application that is received by an election official no later than eight days before the day of the primary, special election, or general election. For purposes of this subsection (1)(a), "received" means: (i) Being physically received by an election official by the close of business of the required deadline; or (ii) for applications received online or electronically, by midnight, of the required deadline; or

(b) Register in person at a county auditor's office, the division of elections if in a separate city from the county auditor's office, a voting center, a student engagement hub, or other location designated by the county auditor no later than 8:00 p.m. on the day of the primary, special election, or general election.

(2)(a) ((~~In order to change a residence address for voting in any primary, special election, or general election, a~~)) A person who is already registered to vote in Washington may update his or her registration by((~~:~~

~~(i) Submitting~~)) submitting an address change ((~~using a registration application or making notification via any non-in-person method that is received by election officials~~)) no later than ((~~eight~~)) 28 days before the day of the primary, special election, or general election((~~; or~~

~~(ii) Appearing in person, at a county auditor's office, the division of elections if in a separate city from the county auditor's office, a voting center, or other location designated by the county auditor, no later than 8:00 p.m. on the day of the primary, special election, or general election to be in effect for that primary, special election, or general election~~)).

(b) A registered voter who fails to update his or her residential address by this deadline may vote according to his or her previous registration address.

(3) To register or update a voting address in person at a county auditor's office, a voting center, or other location designated by the county auditor, a person must appear in person at a county auditor's office, a voting center, or other location designated by the county auditor at a time when the facility is open and complete the voter registration application by providing the information required by RCW 29A.08.010.

**WSP SIGNATURE AUDIT**

NEW SECTION. **Sec.**  A new section is added to chapter 29A.08 RCW to read as follows:

(1) The Washington state patrol, in coordination with the office of the secretary of state and local elections officials, must conduct an audit of signatures on returned voter ballot envelopes from the 2020 general election. Such audit must include a comparison to measure the accuracy of signatures on voter registrations against signatures on ballot return envelopes using a sample size of between 5,000 to 10,000 voter registration signatures randomly selected from each county based on the number of registered voters therein.

(2) The Washington state patrol must report the result of the audit to the legislature and the secretary of state by December 1, 2021.

(3) This section expires July 1, 2022.

**DOL VOTER SERVICES & INDIGENT REAL IDs**

**Sec.**  RCW 46.20.155 and 2018 c 109 s 15 are each amended to read as follows:

(1) Before issuing an original license or identicard or renewing a license or identicard under this chapter, the licensing agent shall determine if the applicant wants to register to vote or update his or her voter registration by asking the following question:

"Do you want to register or sign up to vote or update your voter registration?"

If the applicant chooses to register, sign up, or update a registration, the agent shall ((~~ask~~)) provide the applicant with a signature pad that displays the requirements for voter registration under Article VI, section 1 of the Washington state Constitution and asks the applicant to affirm each of the following:

(1) "I declare that the facts on this voter registration form are true."

(2) "((~~Are you~~)) I am a United States citizen((~~?~~))."

((~~(2)~~)) (3) "I will have lived at this address in Washington for at least 30 days immediately before the next election at which I vote."

(4) "((~~Are you~~)) I am at least eighteen years old or ((~~are you~~)) I am at least sixteen years old and will ((~~you~~)) vote only after ((~~you~~)) I turn eighteen((~~?~~))."

(5) "I am not disqualified from voting due to a court order, and I am not under department of corrections supervision for a Washington felony conviction."

If the applicant ((~~answers in the affirmative to both questions,~~)) affirms all prompts, the applicant must record a signature on the pad, then the agent shall ((~~then~~)) submit the registration, sign up form, or update. If the applicant ((~~answers in the negative to either question~~)) does not affirm all prompts, the agent shall not submit an application. Information that is otherwise disclosable under chapter 29A.08 RCW cannot be disclosed on the future voter until the person reaches eighteen years of age, except for the purpose of processing and delivering ballots.

(2) The department shall establish a procedure that substantially meets the requirements of subsection (1) of this section when permitting an applicant to renew a license or identicard by mail or by electronic commerce.

**Sec.**  RCW 46.20.155 and 2020 c 208 s 8 are each amended to read as follows:

(1) Before issuing an original license or identicard or renewing a license or identicard under this chapter, the licensing agent shall determine if the applicant wants to register to vote or update his or her voter registration by asking the following question:

"Do you want to register or sign up to vote or update your voter registration?"

If the applicant chooses to register, sign up, or update a registration, the agent shall ((~~ask~~)) provide the applicant with a signature pad that displays the requirements for voter registration under Article VI, section 1 of the Washington state Constitution and asks the applicant to affirm each of the following:

(1) "I declare that the facts on this voter registration form are true."

(2) "((~~Are you~~)) I am a United States citizen((~~?~~))."

((~~(2)~~)) (3) "I will have lived at this address in Washington for at least 30 days immediately before the next election at which I vote."

(4) "((~~Are you~~)) I am at least sixteen years old((~~?~~))."

(5) "I am not disqualified from voting due to a court order, and I am not under department of corrections supervision for a Washington felony conviction."

If the applicant ((~~answers in the affirmative to both questions,~~)) affirms all prompts, the applicant must record a signature on the pad, then the agent shall ((~~then~~)) submit the registration, sign up form, or update. If the applicant ((~~answers in the negative to either question~~)) does not affirm all prompts, the agent shall not submit an application. Information that is otherwise disclosable under chapter 29A.08 RCW cannot be disclosed on the future voter until the person reaches eighteen years of age, except for the purpose of processing and delivering ballots.

(2) The department shall establish a procedure that substantially meets the requirements of subsection (1) of this section when permitting an applicant to renew a license or identicard by mail or by electronic commerce.

**Sec.**  RCW 46.20.202 and 2017 c 310 s 3 are each amended to read as follows:

(1) The department may enter into a memorandum of understanding with any federal agency for the purposes of facilitating the crossing of the border between the state of Washington and the Canadian province of British Columbia.

(2) The department may enter into an agreement with the Canadian province of British Columbia for the purposes of implementing a border-crossing initiative.

(3)(a) The department may issue an enhanced driver's license or identicard for the purposes of crossing the border between the state of Washington and the Canadian province of British Columbia to an applicant who provides the department with proof of: United States citizenship, identity, and state residency. The department shall continue to offer a standard driver's license and identicard. If the department chooses to issue an enhanced driver's license, the department must allow each applicant to choose between a standard driver's license or identicard, or an enhanced driver's license or identicard.

(b) The department shall implement a one-to-many biometric matching system for the enhanced driver's license or identicard. An applicant for an enhanced driver's license or identicard shall submit a biometric identifier as designated by the department. The biometric identifier must be used solely for the purpose of verifying the identity of the holders and for any purpose set out in RCW 46.20.037. Applicants are required to sign a declaration acknowledging their understanding of the one-to-many biometric match.

(c) The enhanced driver's license or identicard must include reasonable security measures to protect the privacy of Washington state residents, including reasonable safeguards to protect against unauthorized disclosure of data about Washington state residents. If the enhanced driver's license or identicard includes a radio frequency identification chip, or similar technology, the department shall ensure that the technology is encrypted or otherwise secure from unauthorized data access.

(d) The requirements of this subsection are in addition to the requirements otherwise imposed on applicants for a driver's license or identicard. The department shall adopt such rules as necessary to meet the requirements of this subsection. From time to time the department shall review technological innovations related to the security of identity cards and amend the rules related to enhanced driver's licenses and identicards as the director deems consistent with this section and appropriate to protect the privacy of Washington state residents.

(e) Notwithstanding RCW 46.20.118, the department may make images associated with enhanced drivers' licenses or identicards from the negative file available to United States customs and border agents for the purposes of verifying identity.

(4)(a) Beginning on July 23, 2017, the fee for an enhanced driver's license or enhanced identicard is twenty-four dollars, which is in addition to the fees for any regular driver's license or identicard. If the enhanced driver's license or enhanced identicard is issued, renewed, or extended for a period other than six years, the fee for each class is four dollars for each year that the enhanced driver's license or enhanced identicard is issued, renewed, or extended.

(b) No fee shall be charged for an enhanced driver's license or enhanced identicard to an applicant whose current gross family income is 200 percent or less of the federal poverty level.

(5) The enhanced driver's license and enhanced identicard fee under this section must be deposited into the highway safety fund unless prior to July 1, 2023, the actions described in (a) or (b) of this subsection occur, in which case the portion of the revenue that is the result of the fee increased in section 209, chapter 44, Laws of 2015 3rd sp. sess. must be distributed to the connecting Washington account created under RCW 46.68.395.

(a) Any state agency files a notice of rule making under chapter 34.05 RCW for a rule regarding a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(b) Any state agency otherwise enacts, adopts, orders, or in any way implements a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(c) Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

**LIST MAINTENANCE TOOLS FOR COUNTIES**

**Sec.**  RCW 29A.08.610 and 2009 c 369 s 28 are each amended to read as follows:

The secretary of state shall conduct an ongoing list maintenance program designed to detect persons registered in more than one county or voting in more than one county in an election. This program must be applied uniformly throughout the state and must be nondiscriminatory in its application.

The office of the secretary of state shall search the statewide voter registration list to find registered voters with the same date of birth and similar names. Once the potential duplicate registrations are identified, the secretary of state shall refer the potential duplicate registrations to the appropriate county auditors, who shall compare the signatures on each voter registration record and, after confirming that a duplicate registration exists properly resolve the duplication.

The secretary of state shall provide each county auditor, without cost, access to a legal research data service that includes death and court records covering the United States to assist in the list maintenance program.

If a voter is suspected of voting in two or more counties in an election, the county auditors in each county shall cooperate without delay to determine the voter's county of residence. The county auditor of the county of residence of the voter suspected of voting in two or more counties shall take action under RCW 29A.84.010 without delay.

**FRAUD ENFORCEMENT**

NEW SECTION. **Sec.**  A new section is added to chapter 29A.84 RCW to read as follows:

By December 31st of each year, the Washington association of prosecuting attorneys shall compile and report a list of all cases prosecuted within the state of Washington involving violations of this title. Such a list shall include:

(1) The number of cases referred to prosecutors in the previous 12 months with a description of the allegations and circumstances;

(2) The number of prosecutions initiated based on the referrals; and

(3) The number of and the current status or ultimate outcome of the cases to date.

**GENERAL PROVISIONS**

NEW SECTION. **Sec.**  (1) Section 4 of this act takes effect April 1, 2022.

(2) Section 5 of this act takes effect September 1, 2023.

NEW SECTION. **Sec.**  Section 4 of this act expires September 1, 2023.

NEW SECTION. **Sec.**  This act may be known and cited as the voter confidence act.

**--- END ---**