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**SENATE BILL 6679**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Senators Benton, Baumgartner, Dansel, Ericksen, and Angel

AN ACT Relating to the security and authentication of state-issued identification; amending RCW 46.20.091, 46.20.117, and 46.20.117; reenacting and amending RCW 46.01.130; adding a new section to chapter 43.07 RCW; adding new sections to chapter 46.20 RCW; creating new sections; repealing RCW 43.41.390 and 46.20.191; providing effective dates; and providing an expiration date.

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

NEW SECTION. **Sec.**  The legislature finds that a secure and valid identification is necessary for the efficient and effective operation of government. The legislature further finds that in order to prevent fraud, waste, and abuse of government services, a secure and valid identification is necessary for government procurement, the provision of state benefits, and access to local government services as well as to prevent voter fraud. Moreover, a valid and secure state identification is crucial for emergency management, counterterrorism operations, and law enforcement operations. The legislature further finds that current state-issued identification only requires proof of state residency, which is insufficient for the purposes identified in this section, and therefore, it is necessary as an appropriate safeguard to bring the state identification documents into compliance with federal law and require proof of lawful presence.

NEW SECTION. **Sec.**  A new section is added to chapter 43.07 RCW to read as follows:

The secretary of state must continue to work with the department of licensing to ensure that government-issued identification remains valid and acceptable for purposes of meeting the needs of the relevant divisions and programs of the secretary of state.

NEW SECTION. **Sec.**  A new section is added to chapter 46.20 RCW to read as follows:

(1) Beginning August 1, 2016, any person obtaining or renewing his or her driver's license, driver's instruction permit, agricultural driving permit, identicard, or intermediate license must show proof of his or her United States citizenship or his or her lawful presence within the United States. An original or renewal application for any of the documents listed in this section must not be granted to any person who does not provide verified proof of his or her United States citizenship or his or her lawful presence within the United States.

(2) A person may prove his or her citizenship by providing a valid, unexpired United States passport or passport card, a certified copy of a birth certificate, a consular report of birth abroad issued by the United States department of state, a certificate of naturalization issued by the department of homeland security, or a certificate of citizenship.

(3) A person may prove his or her lawful presence within the United States by providing documentation that he or she is an alien:

(a) Lawfully admitted for permanent or temporary residence in the United States;

(b) With conditional permanent resident status in the United States;

(c) Who has an approved application for asylum in the United States or has entered into the United States in refugee status;

(d) Who has a valid nonimmigrant status in the United States;

(e) Who has a pending application for asylum in the United States;

(f) Who has a pending or approved application for temporary protected status in the United States;

(g) Who has a pending application for lawful permanent residence or conditional permanent resident status; or

(h) Who has approved deferred action status from a deferred action program established before November 20, 2014. A person with approved deferred action status from a program established before November 1, 2014, that is based on any expansion of eligibility criteria to the deferred action program that occurred after November 20, 2014, is not an acceptable form of lawful presence under this subsection (3).

(4) The department must verify the status of an applicant through either the systematic alien verification for entitlements program or through verification of the applicant's social security number with the United States social security administration.

(5) Any driver's license, driver's instruction permit, agricultural driving permit, identicard, or intermediate license issued to a person who has established lawful presence under subsection (3) of this section expires at the same time as the expiration date for the person's authorization to be in the United States, but under no circumstances may the expiration date of the license, identicard, or permit being issued by the department exceed the maximum term provided in statute for each license, identicard, or permit.

(6) An applicant for a driver's license, driver's instruction permit, agricultural driving permit, identicard, or intermediate license must submit to a mandatory facial image capture, even if the license, identicard, or permit is not issued.

(7) The department may adopt rules to implement this section and to bring the state into compliance with the REAL ID act of 2005, 49 U.S.C. Sec. 30301, and its implementing regulations, as each existed on January 1, 2016, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(8) The requirements of this section are in addition to the requirements otherwise imposed on applicants for a driver's license, driver's instruction permit, agricultural driving permit, identicard, or intermediate license. The department may adopt rules to implement this section.

**Sec.**  RCW 46.20.091 and 2000 c 115 s 4 are each amended to read as follows:

(1) **Application**. In order to apply for a driver's license or instruction permit, in addition to the information required under section 3 of this act, the applicant must provide his or her:

(a) Name of record, as established by documentation required under RCW 46.20.035;

(b) Date of birth, as established by satisfactory evidence of age;

(c) Sex;

(d) Washington residence address;

(e) Description;

(f) Driving licensing history, including:

(i) Whether the applicant has ever been licensed as a driver or chauffeur and, if so, (A) when and by what state or country; (B) whether the license has ever been suspended or revoked; and (C) the date of and reason for the suspension or revocation; or

(ii) Whether the applicant's application to another state or country for a driver's license has ever been refused and, if so, the date of and reason for the refusal; and

(g) Any additional information required by the department.

(2) **Sworn statement**. An application for an instruction permit or for an original driver's license must be made upon a form provided by the department. The form must include a section for the applicant to indicate whether he or she has received driver training and, if so, where. The identifying documentation verifying the name of record must be accompanied by the applicant's written statement that it is valid. The information provided on the form must be sworn to and signed by the applicant before a person authorized to administer oaths. An applicant who makes a false statement on an application for a driver's license or instruction permit is guilty of false swearing, a gross misdemeanor, under RCW 9A.72.040.

(3) **Driving records from other jurisdictions**. If a person previously licensed in another jurisdiction applies for a Washington driver's license, the department shall request a copy of the applicant's driver's record from the other jurisdiction. The driving record from the other jurisdiction becomes a part of the driver's record in this state.

(4) **Driving records to other jurisdictions**. If another jurisdiction requests a copy of a person's Washington driver's record, the department shall provide a copy of the record. The department shall forward the record without charge if the other jurisdiction extends the same privilege to the state of Washington. Otherwise the department shall charge a reasonable fee for transmittal of the record.

**Sec.**  RCW 46.20.117 and 2012 c 80 s 6 are each amended to read as follows:

(1) **Issuance**. The department shall issue an identicard, containing a picture, if the applicant:

(a) Does not hold a valid Washington driver's license;

(b) Proves his or her identity as required by RCW 46.20.035 and legal presence as required in section 3 of this act; and

(c) Pays the required fee. Except as provided in subsection (5) of this section, the fee is forty-five dollars from October 1, 2012, to June 30, 2013, and fifty-four dollars after June 30, 2013, unless an applicant is a recipient of continuing public assistance grants under Title 74 RCW, who is referred in writing by the secretary of social and health services. For those persons the fee must be the actual cost of production of the identicard.

(2) **Design and term**. The identicard must:

(a) Be distinctly designed so that it will not be confused with the official driver's license; and

(b) Except as provided in subsection (5) of this section, expire on the sixth anniversary of the applicant's birthdate after issuance.

(3) **Renewal**. An application for identicard renewal may be submitted by means of:

(a) Personal appearance before the department; or

(b) Mail or electronic commerce, if permitted by rule of the department and if the applicant did not renew his or her identicard by mail or by electronic commerce when it last expired.

An identicard may not be renewed by mail or by electronic commerce unless the renewal issued by the department includes a photograph of the identicard holder.

(4) **Cancellation**. The department may cancel an identicard if the holder of the identicard used the card or allowed others to use the card in violation of RCW 46.20.0921.

(5) **Alternative issuance/renewal/extension**. The department may issue or renew an identicard for a period other than five years from October 1, 2012, to June 30, 2013, or six years after June 30, 2013, or may extend by mail or electronic commerce an identicard that has already been issued, in order to evenly distribute, as nearly as possible, the yearly renewal rate of identicard holders. The fee for an identicard issued or renewed for a period other than five years from October 1, 2012, to June 30, 2013, or six years after June 30, 2013, or that has been extended by mail or electronic commerce, is nine dollars for each year that the identicard is issued, renewed, or extended. The department may adopt any rules as are necessary to carry out this subsection.

**Sec.**  RCW 46.20.117 and 2014 c 185 s 2 are each amended to read as follows:

(1) **Issuance**. The department shall issue an identicard, containing a picture, if the applicant:

(a) Does not hold a valid Washington driver's license;

(b) Proves his or her identity as required by RCW 46.20.035 and legal presence as required in section 3 of this act; and

(c) Pays the required fee. Except as provided in subsection (5) of this section, the fee is forty-five dollars from October 1, 2012, to June 30, 2013, and fifty-four dollars after June 30, 2013, unless an applicant is a recipient of continuing public assistance grants under Title 74 RCW, who is referred in writing by the secretary of social and health services. For those persons the fee must be the actual cost of production of the identicard.

(2)(a) **Design and term**. The identicard must:

(i) Be distinctly designed so that it will not be confused with the official driver's license; and

(ii) Except as provided in subsection (5) of this section, expire on the sixth anniversary of the applicant's birthdate after issuance.

(b) The identicard may include the person's status as a veteran, consistent with RCW 46.20.161(2).

(3) **Renewal**. An application for identicard renewal may be submitted by means of:

(a) Personal appearance before the department; or

(b) Mail or electronic commerce, if permitted by rule of the department and if the applicant did not renew his or her identicard by mail or by electronic commerce when it last expired.

An identicard may not be renewed by mail or by electronic commerce unless the renewal issued by the department includes a photograph of the identicard holder.

(4) **Cancellation**. The department may cancel an identicard if the holder of the identicard used the card or allowed others to use the card in violation of RCW 46.20.0921.

(5) **Alternative issuance/renewal/extension**. The department may issue or renew an identicard for a period other than five years from October 1, 2012, to June 30, 2013, or six years after June 30, 2013, or may extend by mail or electronic commerce an identicard that has already been issued, in order to evenly distribute, as nearly as possible, the yearly renewal rate of identicard holders. The fee for an identicard issued or renewed for a period other than five years from October 1, 2012, to June 30, 2013, or six years after June 30, 2013, or that has been extended by mail or electronic commerce, is nine dollars for each year that the identicard is issued, renewed, or extended. The department may adopt any rules as are necessary to carry out this subsection.

**Sec.**  RCW 46.01.130 and 2013 c 336 s 1 and 2013 c 224 s 1 are each reenacted and amended to read as follows:

The director:

(1) Shall supervise and control the issuing of vehicle certificates of title, vehicle registrations, and vehicle license plates, and has the full power to do all things necessary and proper to carry out the provisions of the law relating to the registration of vehicles;

(2) May appoint and employ deputies, assistants, representatives, and clerks;

(3) May establish branch offices in different parts of the state;

(4) May appoint county auditors in Washington state or, in the absence of a county auditor, the department or an official of county government as agents for applications for and the issuance of vehicle certificates of title and vehicle registrations; and

(5)(a) Shall investigate the conviction records and pending charges of any current employee of or prospective employee being considered for any position with the department who has or will have:

(i)(A) The ability to create or modify records of applicants for enhanced drivers' licenses and identicards issued under RCW 46.20.202; and

(B) The ability to issue enhanced drivers' licenses and identicards under RCW 46.20.202; ((~~or~~))

(ii) The ability to conduct examinations under RCW 46.25.060; ((~~or~~))

(iii) Access to information pertaining to vehicle license plates, drivers' licenses, or identicards under RCW 46.08.066, or vessel registrations issued under RCW 88.02.330 that, alone or in combination with any other information, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement, confidential public health work, public assistance fraud, or child support investigative activity;

(iv) The ability to create or modify records of applicants for a federally compliant driver's license under section 3 of this act; or

(v) The ability to issue a federally compliant driver's license under section 3 of this act.

(b) The investigation consists of a background check as authorized under RCW 10.97.050, 43.43.833, and 43.43.834, and the federal bureau of investigation. The background check must be conducted through the Washington state patrol criminal identification section and may include a national check from the federal bureau of investigation, which is through the submission of fingerprints. The director shall use the information solely to determine the character, suitability, and competence of current or prospective employees subject to this section.

(c) The director shall investigate the conviction records and pending charges of an employee subject to:

(i) Subsection (5)(a)(i) of this section every five years; and

(ii) Subsection (5)(a)(ii) of this section as required under 49 C.F.R. Sec. 384.228 as it existed on July 8, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(d) Criminal justice agencies shall provide the director with information that they may possess and that the director may require solely to determine the employment suitability of current or prospective employees subject to this section.

NEW SECTION. **Sec.**  A new section is added to chapter 46.20 RCW to read as follows:

Any driver's license or other form of identification issued by a state that accepts as proof of lawful presence an approved deferred action status based on eligibility criteria that was established after November 20, 2014, must not be considered a valid form of identification in Washington state by the department. This restriction also applies to drivers' licenses or other forms of identification from states that accept as lawful presence an approved deferred action status from a deferred action program that was expanded after November 1, 2014.

NEW SECTION. **Sec.**  The joint transportation committee must study the issuance of drivers' licenses to persons who cannot prove their lawful presence in the United States. The study must examine the impact this policy has on various stakeholder groups, including industries that are reliant on drivers' licenses as proof of identification. Additionally, the study must consider any security risks and other impacts related to public safety that the issuance of drivers' licenses to persons who are not lawfully present may pose to the state of Washington. The committee must submit a report to the legislature by December 1, 2018.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1)RCW 43.41.390 (Implementation of federal REAL ID Act of 2005) and 2007 c 85 s 1; and

(2)RCW 46.20.191 (Compliance with federal REAL ID Act of 2005 requirements) and 2007 c 85 s 2.

NEW SECTION. **Sec.**  Sections 1 through 5, 7, and 8 of this act take effect August 1, 2016.

NEW SECTION. **Sec.**  Section 6 of this act takes effect August 30, 2017.

NEW SECTION. **Sec.**  Section 5 of this act expires August 30, 2017.

**--- END ---**