
A BILL FOR AN ACT

RELATING TO CIVIL IDENTIFICATION.

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

1 SECTION 1. The legislature finds that the United States
2 enacted the REAL ID Act of 2005, division B of Public Law No.
3 109-13. The REAL ID Act sets forth in title II, specifically
4 sections 201 and 202, the kind of documentation required and
5 procedures to be followed in issuing drivers' licenses and non-
6 drivers' identification cards. Pursuant to section 37.51 of
7 title 6 of the Code of Federal Regulations, as amended, volume
8 40 Federal Register pages 12269-12271 (March 7, 2011), the REAL
9 ID Act must be implemented by January 15, 2013. The legislature
10 further finds that drivers' licenses and non-drivers'
11 identification cards that do not comply with the REAL ID Act on
12 and after January 15, 2013, will not be recognized by federal
13 agencies, such as the Transportation Security Administration,
14 and may not be recognized by other states. The REAL ID Act must
15 be implemented on a timely basis in order to permit Hawaii's
16 people to travel and to do business with the federal government
17 and other states.



1 Hawaii is unique among the fifty states in that the
2 counties, under the general supervision of the director of
3 transportation, have been delegated the function of implementing
4 the state driver's license program since 1937. Under current
5 law, the department of the attorney general issues non-drivers'
6 identification cards. It is imperative that the two functions
7 be combined in order to comply with the REAL ID Act.

8 The purpose of this Act is to consolidate the driver's
9 license and non-driver's identification card programs for the
10 State of Hawaii under the director of transportation and to have
11 the non-drivers' identification cards issued by the examiners of
12 drivers of each county. A transition period is provided for the
13 substantial consolidation effort, with full implementation to
14 take effect on January 1, 2013.

15 Act 35, Session Laws of Hawaii 2011, further mandates the
16 attorney general to work with the director of transportation and
17 appropriate county agencies to allow county employees to issue
18 certificates of identification at the same locations where
19 drivers' licenses are issued. This is to be accomplished by
20 January 1, 2013.



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

4 **"§286-A Issuance of identification card or temporary card.**

5 (a) The examiner of drivers, upon receipt of an application
6 filed in compliance with section 286-C by any person who is a
7 resident or a temporary resident of this State, and, except as
8 otherwise provided in this section and section 286-I, upon
9 receipt of the fee therefor, shall issue an identification card
10 to that person.

11 (b) To obtain an identification card from the examiner of
12 drivers, a person shall complete the application form described
13 in section 286-C.

14 (c) An identification card shall be similar in size,
15 shape, and design to a driver's license, but shall not entitle
16 the person to whom it is issued to operate a motor vehicle.

17 (d) The issuance of an identification card pursuant to
18 this section shall not place upon the State of Hawaii or any
19 agency thereof any liability for the misuse thereof and the
20 acceptance thereof as valid identification is a matter left
21 entirely to the discretion of any person or entity to whom the
22 card is presented.



1 §286-B Oaths and investigations. The examiner of drivers
2 or authorized subordinate may administer oaths and require oral
3 or written statements under oath of any person in connection
4 with any information required under this part or any rule
5 adopted pursuant to this part.

6 §286-C Application for identification card. (a)
7 Application for the identification card shall be made in person
8 by any adult person or minor ten years of age or older. In the
9 case of a minor under the age of fourteen years, the application
10 shall be made on the minor's behalf by a parent, or another
11 person in loco parentis of the minor who can provide proof of
12 guardianship. In the case of an incompetent person, the
13 application shall be made by a person having the custody or
14 control of or maintaining the incompetent person.

15 (b) Application for renewal of an identification card
16 issued after November 1, 1998, for a person eighty years old or
17 older, may be done by mailing in a completed application and fee
18 if there is no change in name and citizenship. The director
19 shall adopt rules to allow for renewal by mail for persons with
20 physical or mental disabilities for whom application in person
21 presents a serious burden.



1 (c) Every application for an identification card or
2 duplicate shall:

3 (1) Be made on a form prescribed by the director and
4 furnished by the examiner of drivers;

5 (2) Be signed by the applicant, and if the applicant is
6 under eighteen years of age by the applicant's parent
7 or guardian; and

8 (3) Contain the following information pertaining to the
9 applicant:

10 (A) Name and street and number or address of the
11 applicant's permanent residence;

12 (B) The applicant's occupation and any pertinent data
13 relating thereto;

14 (C) The applicant's citizenship;

15 (D) The applicant's date and place of birth;

16 (E) General description, including the applicant's
17 gender, height, weight, hair color, and eye
18 color;

19 (F) The applicant's left and right index fingerprints
20 or, if clear impressions cannot be obtained,
21 other identifying imprints as specified by rule;

22 (G) The social security number of the applicant; and



1 (H) A digitized frontal photograph of the applicant's
2 full face.

3 Each applicant shall present documentary evidence as required by
4 the examiner of drivers of the applicant's age and identity and
5 the applicant shall swear or affirm that all information
6 provided is true and correct.

7 (d) The application also shall state whether the applicant
8 has an advance health-care directive. If the applicant has an
9 advance health-care directive, the identification card shall
10 bear the designation "AHCD". For purposes of this subsection
11 "advance health-care directive" means an individual instruction
12 in writing, a living will, or a durable power of attorney for
13 health care decisions.

14 (e) The examiner of drivers, in accordance with section
15 11-16, at the time of application, shall make an application for
16 voter registration available to every applicant for an
17 identification card who is eligible to register to vote.

18 (f) The examiner of drivers shall maintain a suitable,
19 indexed record of all applications.

20 §286-D Procedure. (a) All information required by
21 section 286-C shall be obtained by employees of the examiner of
22 drivers as provided for by rules and personal interviews with



1 the applicant for the identification card or the parent, person
2 in loco parentis, or guardian of the applicant. An applicant or
3 other person providing information on behalf of an applicant
4 shall truthfully answer all questions, furnish all information
5 within the possession or knowledge of the person which may be
6 asked or required by the employee within the scope of the
7 requirements of this part, and submit to the examiner of drivers
8 all information and supporting documentation required by rule.

9 (b) Special provisions may be established by rule.

10 (c) The examiner of drivers may require an applicant, or
11 any person providing information on behalf of an applicant, to
12 furnish original or certified copies of documents to establish
13 or corroborate the information required to establish identity
14 under this part and may, by rule, prescribe the documents
15 necessary to support or corroborate certain information.

16 **§286-E Contents and characteristics; form.** (a) Each
17 identification card issued by the examiner of drivers shall
18 display a distinguishing number assigned to the cardholder, and
19 shall display the following inscription:

20 "STATE OF HAWAII IDENTIFICATION CARD"

21 (b) The examiner of drivers, after taking the fingerprints
22 of the applicant as provided in this part and after obtaining



1 the information required by or pursuant to this part, shall
2 issue to each applicant an identification card in the form, and
3 with identifying information as the director deems necessary and
4 appropriate; provided that the identification card shall not
5 display the cardholder's social security number.

6 (c) The identification card shall be designed to prevent
7 its reproduction or alteration without ready detection.

8 (d) Identification cards issued to persons under twenty-
9 one years of age shall have characteristics prescribed by the
10 examiner of drivers that distinguish them from identification
11 cards issued to persons who are twenty-one years of age or
12 older.

13 **§286-F Expiration; renewal; replacement.** (a) Every
14 identification card issued under this part, whether an original
15 or a renewal, shall bear an expiration date which shall be on
16 the person's birthday, eight years after the year of issuance;
17 provided that if the person is a legal nonimmigrant, the
18 certificate shall bear an expiration date that is the same as
19 the expiration date on the person's Immigration and
20 Naturalization Service departure card (I-94). A cardholder may
21 renew the cardholder's identification card within six months
22 before the expiration date by filing an application in



1 accordance with section 286-C and paying the prescribed fee
2 established by rule.

3 (b) If an identification card is lost, destroyed, or
4 mutilated, the person to whom the identification card was issued
5 may obtain a duplicate by:

6 (1) Furnishing suitable proof of the loss, destruction, or
7 mutilation to the examiner of drivers; and

8 (2) Filing an application and presenting documentary
9 evidence under section 286-C.

10 (c) Any person who loses an identification card, and after
11 obtaining a duplicate, finds the original, immediately shall
12 surrender the original to the examiner.

13 A cardholder may obtain a replacement identification card
14 that reflects any change of the cardholder's name by furnishing
15 suitable proof of the change to the examiner and surrendering
16 the cardholder's existing card.

17 (d) A cardholder shall pay a fee, as established by rule
18 to obtain a duplicate or replacement identification card.

19 (e) The examiner of drivers shall cancel an identification
20 card upon determining that the identification card was obtained
21 unlawfully, issued in error, or was altered. The examiner also
22 shall cancel an identification card that is surrendered to the



1 examiner after the cardholder has obtained a duplicate or
2 replacement identification card, or a REAL ID compliant driver's
3 or commercial driver's license.

4 (f) No agent of the State or its political subdivisions
5 shall condition the granting of any benefit, service, right, or
6 privilege upon the possession by any person of an identification
7 card. Nothing in this section shall preclude any publicly
8 operated or franchised transit system from using an
9 identification card for the purpose of granting benefits or
10 services of the system.

11 No person shall be required to apply for, carry, or possess
12 an identification card.

13 (g) The examiner of drivers shall not issue an
14 identification card to a person under twenty-one years of age
15 that does not have the characteristics prescribed by the
16 examiner distinguishing it from the identification card issued
17 to persons who are twenty-one years of age or older.

18 (h) A person who violates subsection (g) shall be guilty
19 of a misdemeanor.

20 (i) To provide for the transition to issuance of
21 identification cards by the examiner of drivers, a valid and
22 unexpired identification card issued by the attorney general



1 prior to January 1, 2013, shall be valid until its stated
2 expiration date.

3 **§286-G Identification cards not to be altered; duties of**
4 **holder; lost certificates.** No person, except agents of the
5 examiner of drivers acting pursuant to the authority of law,
6 shall alter, deface, or destroy any identification card. Except
7 as specifically authorized by this section or by rule, no
8 cardholder shall loan or give the person's identification card
9 to any other person, and no person shall use the identification
10 card of any other person. Any person whose identification card
11 is stolen or otherwise lost, or altered, defaced, or destroyed,
12 may at any time apply for a duplicate identification card, which
13 duplicate shall be issued by the examiner of drivers upon being
14 satisfied as to such loss, alteration, defacing, or destruction.
15 In the case of an altered or defaced identification card, the
16 identification card, if available, shall be surrendered by the
17 cardholder and canceled by the examiner. Any person finding or
18 coming into possession of the identification card of any other
19 person shall promptly return or deliver the same to the owner
20 thereof, a law enforcement officer, or the examiner of drivers.

21 **§286-H Correction or alteration of records and**
22 **identification cards in cases of error or subsequent changes**



1 concerning names, citizenship, description, etc. (a) If, after
2 receiving an identification card, the name of any cardholder is
3 legally changed by marriage, divorce, adoption, legitimization,
4 order of the lieutenant governor, or other legal means, or if
5 there is a change in the cardholder's citizenship, or if there
6 is a change in the cardholder's address, the cardholder or other
7 person in charge of the cardholder, as prescribed in section
8 286-C(a), within thirty days after the change of name, or
9 address, or citizenship, shall report the change, submit
10 evidence of the change, and present the cardholder's
11 identification card to the examiner of drivers. The examiner,
12 upon being satisfied as to the change and receiving payment of
13 the fee, shall cancel the identification card and issue a new
14 identification card bearing the new name or citizenship, or
15 address of the cardholder, making appropriate notation of the
16 changed information upon the records of the examiner.

17 (b) If the examiner's records of a cardholder or the
18 identification card of a cardholder contains an error, the
19 examiner of drivers, of its own motion, or upon application by
20 the cardholder, and upon receipt of satisfactory evidence that
21 an error has been committed, with the approval of the examiner,
22 may correct the error and shall make appropriate changes or



1 notations stating the error and the correct information upon the
2 records of the examiner and the identification card.

3 (c) If any item of personal information originally correct
4 with respect to a cardholder changes after issuance of the
5 cardholder's identification card, the change, if material, may
6 be registered by the examiner of drivers and the records and
7 identification card may be altered by the examiner of drivers to
8 conform thereto, upon receipt of an approval by the examiner of
9 drivers of satisfactory evidence as to the change.

10 §286-I Rules. For the purposes of this part, the director
11 of transportation shall adopt rules pursuant to chapter 91,
12 including rules prescribing reasonable fees for the services
13 provided under this part; provided that the rules shall provide
14 for a waiver of any fee in cases of extreme hardship.

15 §286-J Forms. The director may prepare, prescribe, and
16 furnish forms for questionnaires, notices, fingerprint cards or
17 forms, certificates of identification, instructions, and all
18 other forms necessary for the prompt, efficient, and adequate
19 execution of the functions of the examiner of drivers set forth
20 in this part.

21 §286-K Custody and use of records; information
22 confidential. (a) All information and records acquired by the



1 examiner of drivers under this part shall be confidential. All
2 information and records shall be maintained in an appropriate
3 form and in an appropriate location in the custody and under the
4 control of the examiner. The information shall be available
5 only to authorized persons under such restrictions as the
6 director shall prescribe. The examiner may dispose of any
7 application or identification card, or information or record
8 relating to an application or identification card that does not
9 include a social security number, without regard to the
10 provisions of chapter 94, whenever, in the examiner's
11 discretion, retention of the information or record is no longer
12 required or practicable.

13 (b) No officer or employee of the examiner of drivers
14 shall divulge any information concerning any cardholder acquired
15 from the records of the examiner or acquired in the performance
16 of any of the officer's or employee's duties under this part to
17 any person not authorized to receive the information pursuant to
18 this part. No person acquiring from the records any information
19 concerning any cardholder shall divulge the information to any
20 person not so authorized to receive the information.

21 §286-L State identification card fee special fund. There
22 is established in the state treasury a special fund to be known



1 as the state identification card fee special fund. The fund
2 shall consist of all fees assessed for the processing and
3 issuance of identification cards. The fund shall be used for
4 the purposes of the identification card program. The fund shall
5 be administered by the director. The fund shall be held
6 separate and apart from all other moneys, funds, and accounts in
7 the state treasury. Interest and investment earnings credited
8 to the assets of the fund shall become a part of the fund. Any
9 balance remaining in the fund at the end of any fiscal year
10 shall be carried forward in the fund for the next fiscal year.

11 §286-M Reimbursement to counties. The counties shall be
12 reimbursed the incremental costs incurred in the administration
13 of this chapter from the state identification card fee special
14 fund established in section 286-L. The amount of reimbursement
15 shall be determined by the director of transportation."

16 SECTION 3. Section 286-2, Hawaii Revised Statutes, is
17 amended by adding a new definition to be appropriately inserted
18 and to read as follows:

19 "Identification card" means a document made or issued
20 under the authority of this chapter which, when completed with
21 information concerning a particular individual, is intended
22 solely for the purposes of identification."



1 SECTION 4. Chapter 286, Hawaii Revised Statutes, is
2 amended by amending the title of part VI to read as follows:

3 "PART VI. MOTOR VEHICLE DRIVER LICENSING AND
4 IDENTIFICATION CARDS"

5 SECTION 5. Section 286-102, Hawaii Revised Statutes, is
6 amended by amending subsection (c) to read as follows:

7 "(c) No person shall receive a driver's license without
8 surrendering to the examiner of drivers all valid driver's
9 licenses and all valid identification cards in the person's
10 possession. All licenses and valid identification cards [~~se~~
11 ~~surrendered~~] shall be returned to the issuing authority,
12 together with information that the person is licensed in this
13 State; provided that with the exception of drivers' licenses
14 issued by any Canadian province, a foreign driver's license may
15 be returned to the owner after being invalidated pursuant to
16 issuance of a Hawaii license; and provided further that the
17 examiner of drivers shall notify the authority that issued the
18 foreign license that the license has been invalidated and
19 returned because the owner is now licensed in [~~this~~] the State.
20 No person shall be permitted to hold more than one valid
21 driver's license at any time."



1 SECTION 6. Part II of chapter 846, Hawaii Revised
2 Statutes, is repealed.

3 SECTION 7. All valid and unexpired non-drivers'
4 identification cards issued by the attorney general up to and
5 including December 31, 2012, shall remain valid for all purposes
6 until their stated expiration date.

7 SECTION 8. The jurisdiction, functions, powers, duties,
8 and authority heretofore executed by the attorney general shall
9 be transferred and conferred upon the director of transportation
10 and shall be performed and enforced in the same manner as
11 previously authorized, entitled, or obligated except as
12 otherwise authorized, directed, or instructed by this Act.

13 The director of transportation shall succeed to all of the
14 rights and powers previously exercised, and all of the duties
15 and obligations incurred by the attorney general in the exercise
16 of the functions, powers, duties, and authority transferred,
17 whether such functions, powers, duties, and authority are
18 mentioned in or granted by any law, contract, or other document.

19 All rules, policies, procedures, guidelines, and other
20 material developed or adopted by the attorney general to
21 implement provisions of the Hawaii Revised Statutes, the
22 substance of which are reenacted or made applicable to the



1 director of transportation under this Act, shall remain in full
2 force and effect until amended or replaced by the director of
3 transportation pursuant to chapter 91, Hawaii Revised Statutes.

4 All leases, contracts, agreements, permits or other
5 documents executed or entered into by or on behalf of the
6 attorney general pursuant to the provisions of the Hawaii
7 Revised Statutes, the substance of which are reenacted or made
8 applicable to the director of transportation by this Act, shall
9 remain in full force and effect.

10 SECTION 9. Effective January 1, 2013, all personnel
11 employed by and positions in the department of the attorney
12 general whose functions, duties, responsibilities, and
13 activities involved the collection and review of information
14 related to issuance of non-drivers' identification cards,
15 record-keeping, fingerprinting, and issuance of non-drivers'
16 identification cards, including data processing, administrative
17 services, and the like, shall be transferred to the examiner of
18 drivers of the respective counties pursuant to a plan approved
19 by the State and the counties. As with drivers' and commercial
20 drivers' licenses, the director of transportation shall retain
21 such authority as necessary to ensure uniformity in the issuance
22 of identification cards.



1 All employees who occupy civil service positions and whose
2 functions are transferred to the department of transportation or
3 the examiner of drivers of the respective counties pursuant to a
4 plan approved by the State and the counties by this Act shall
5 retain their civil service status, permanent or temporary.
6 Employees shall be transferred without loss of salary,
7 seniority, retention points, prior service credit, any vacation
8 and sick leave credits previously earned, and other rights,
9 benefits, and privileges, in accordance with state personnel
10 laws and this Act; provided that the employees possess the
11 minimum qualifications and public employment requirements for
12 the class or position to which transferred or appointed, as
13 applicable; provided further that subsequent changes in status
14 may be made pursuant to applicable civil service and
15 compensation laws.

16 Any employee who, prior to this Act, is exempt from civil
17 service and is transferred as a consequence of this Act, may
18 continue to retain the employee's exempt status, but shall not
19 be appointed to a civil service position because of this Act.

20 An exempt employee who is transferred by this Act shall not
21 suffer any loss of prior service credit, any vacation and sick
22 leave credits previously earned, or other employee benefits or



1 privileges as a consequence of this Act; provided that the
2 employees possess legal and public employment requirements for
3 the position to which transferred or appointed, as applicable;
4 provided that subsequent changes in status may be made pursuant
5 to applicable employment and compensation laws. The director of
6 transportation or the examiner of drivers of the respective
7 counties pursuant to a plan approved by the State and the
8 counties may prescribe the duties and qualifications of such
9 employees and fix their salaries without regard to chapter 76,
10 Hawaii Revised Statutes.

11 SECTION 10. All records, equipment, files, supplies,
12 contracts, books, papers, documents, appropriations, balances in
13 the state identification revolving fund and other property
14 theretofore made, used, acquired, or held by the department of
15 the attorney general in connection with non-drivers'
16 identification cards shall be transferred with the functions to
17 which they relate to the director of transportation or the
18 respective counties, as the case may be.

19 SECTION 11. No suit or prosecution relating to the subject
20 matter of this Act pending at the time this Act takes effect
21 shall be affected by this Act.



1 SECTION 12. All laws and parts of laws heretofore enacted
2 that are in conflict with the provisions of this Act are hereby
3 amended to conform herewith.

4 SECTION 13. This Act shall be liberally construed to
5 accomplish the purposes set forth in section 1. Any portion of
6 this Act judicially declared to be invalid shall not affect the
7 validity of the remaining portions of this Act.

8 SECTION 14. In codifying the new sections added to chapter
9 286, Hawaii Revised Statutes, by section 2 of this Act, the
10 revisor of statutes shall substitute appropriate section numbers
11 for the letters used in the designations of, and references to,
12 those new sections in this Act.

13 SECTION 15. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 16. This Act shall take effect on January 1, 2013.



Report Title:

Civil Identification

Description:

Makes the Director of Transportation responsible for the non-driver's identification card program for the State of Hawaii and requires the non-drivers' identification cards to be issued by the examiners of drivers in each county. Effective January 1, 2013. (HB2453 HD1)

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

