

JAN 20 2012

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, P.L. 109-13. The REAL ID Act
3 sets forth in title II, specifically sections 201 and 202, the
4 kind of documentation required and procedures to be followed in
5 issuing driver's licenses and non-driver's, or civil,
6 identification cards. Pursuant to section 37.51 of title 6 of
7 the Code of Federal Regulations, as amended, volume 76 issue 44
8 Federal Register pages 12269-12271 (March 7, 2011), the REAL ID
9 Act must be implemented by January 15, 2013.

10 The legislature further finds that driver's licenses and
11 non-driver's identification cards that do not comply with the
12 REAL ID Act on or after January 15, 2013, will not be recognized
13 by federal agencies, such as the Transportation Security
14 Administration, and may not be recognized by other states. The
15 REAL ID Act must be implemented on a timely basis in order to
16 permit Hawaii's people to travel and to do business with the
17 federal government and other states.



1 The legislature also finds that Hawaii is unique in that
2 the 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-driver's,
6 or civil, identification cards. It is imperative that the two
7 functions be combined in order to comply with the REAL ID Act.

8 The purpose of this Act is to:

- 9 (1) Consolidate the driver's license and civil
10 identification programs for the State of Hawaii under
11 the director of transportation;
- 12 (2) Allow county examiners of drivers to issue civil
13 identification cards;
- 14 (3) Allow county employees to issue certificates of
15 identification at the same locations where driver's
16 licenses are issued; and
- 17 (4) Ensure this consolidation effort and full
18 implementation of this Act to be accomplished by
19 January 15, 2013.

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



1 **"§286-A Issuance of identification card or temporary card.**

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

8 (b) To obtain an identification card from the examiner of
9 drivers, an individual must complete the application form
10 described in section 286-C.

11 (c) An identification card shall be similar in size,
12 shape, and design to a driver's license, but does not entitle
13 the individual to whom it is issued to operate a motor vehicle.

14 (d) The issuance of an identification card pursuant to
15 this section shall not place upon the State of Hawaii or any
16 agency any liability for the misuse and the acceptance as valid
17 identification. This matter shall be left entirely to the
18 discretion of any individual to whom such card is presented.

19 **§286-B Oaths and investigations.** The examiner of drivers
20 and each authorized subordinate may administer oaths and require
21 and take oral or written statements under oath of any individual

1 in connection with any information required under this part or
2 any rule under this part.

3 **§286-C Application for identification card.** (a)

4 Application for the identification card shall be made in person
5 by any adult or minor. The minimum age for minors to obtain an
6 identification card shall be ten years of age. In the case of a
7 minor under the age of fourteen years, the application shall be
8 made on the minor's behalf by the parent, or by another
9 individual in loco parentis of such minor who can provide proof
10 of guardianship. In the case of an incompetent individual, the
11 application shall be made by the individual having the custody
12 or control of or maintaining the incompetent individual.

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

20 (c) Every application for an identification card or
21 duplication of an identification card shall be made on a form
22 developed by the director and furnished by the examiner of



1 drivers, signed by the applicant, and signed by the applicant's
2 parent or guardian if the applicant is under eighteen years of
3 age; provided the application contains the following
4 information:

- 5 (1) Name and complete address, including the number and
6 street name, of the applicant's permanent residence;
- 7 (2) The applicant's occupation and any pertinent data
8 relating thereto;
- 9 (3) The applicant's citizenship status;
- 10 (4) The applicant's date and place of birth;
- 11 (5) General description, including the applicant's gender,
12 height, weight, hair color, and eye color;
- 13 (6) The applicant's left and right index fingerprints or,
14 if clear impressions cannot be obtained, other
15 identifying imprints as specified by rules of the
16 director;
- 17 (7) The social security number of the applicant; and
- 18 (8) A digitized frontal photograph of the applicant's full
19 face.

20 Each applicant shall present documentary evidence as required by
21 the examiner of drivers of the applicant's age and identity, and



1 the applicant shall swear or affirm that all information given
2 is true and correct.

3 (d) The application also shall state whether the applicant
4 has an advance health-care directive. If the applicant has an
5 advance health-care directive, the identification card shall
6 bear the designation "AHCD".

7 (e) The examiner of drivers, in accordance with section
8 11-6, at the time of application, shall make an application for
9 voter registration available to every applicant for an
10 identification card who is eligible to register to vote.

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

13 (g) For the purpose of this section, "AHCD", which stands
14 for "advance health-care directive", means an individual
15 instruction in writing, a living will, or a durable power of
16 attorney for health care decisions.

17 **§286-D Procedure.** (a) All information required by
18 section 286-C shall be obtained by employees of the examiner as
19 provided for by rules of the director and by individual
20 interviews with the applicant for the identification card or
21 parent, individual in loco parentis, or guardian, as shown by
22 letters of guardianship. Every applicant or individual



1 providing information on behalf of any applicant under this part
2 shall answer truthfully all questions, furnish all information
3 within the possession or knowledge of the individual that may be
4 asked or required by the employee within the scope of the
5 requirements of this part, and submit to the examiner all
6 information and supporting documentation required by rules of
7 the director.

8 (b) Special provisions may be made by rules established by
9 the director.

10 (c) The examiner may require an applicant, or any
11 individual 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 rules, set forth what documents will
15 be required 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 obtaining the
22 fingerprint of the applicant as provided in this part and after



1 obtaining the information required by or pursuant to this part,
2 shall issue to each applicant an identification card in such
3 form, and with such identifying information as the director
4 deems necessary and appropriate.

5 (c) The identification card shall not display the
6 cardholder's social security number.

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

9 (e) The identification card for individuals under twenty-
10 one years of age shall have characteristics prescribed by the
11 examiner distinguishing it from that issued to a individual who
12 is twenty-one years of age or 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 that shall be on the
16 individual's date and month of the individual's birthday and
17 eight years after the year of issuance; provided that if the
18 individual is a legal nonimmigrant, the certificate shall bear
19 an expiration date that is the same as the expiration date on
20 the individual's Immigration and Naturalization Service
21 departure card (I-94). A cardholder may renew the cardholder's
22 identification card within six months before the day on which it



1 expires by filing an application in accordance with section
2 286-C and paying the prescribed fee establish by rules of the
3 director.

4 (b) If an identification card is lost, destroyed, stolen,
5 or mutilated, the individual to whom the identification card was
6 issued may obtain a duplicate by paying the fee established by
7 rules of the director and completing the following:

8 (1) Furnishing suitable proof of the loss, destruction, or
9 mutilation to the examiner; and

10 (2) Filing an application and presenting documentary
11 evidence under section 286-C;

12 Any individual who loses an identification card and, after
13 obtaining a duplicate, finds the original, shall immediately
14 surrender the original to the examiner.

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

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



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

4 (e) 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 individual of an
7 identification card. Nothing in this section shall preclude any
8 publicly operated or franchised transit system from using an
9 identification card for the purpose of granting benefits or
10 services of the system. No individual shall be required to
11 apply for, carry, or possess an identification card.

12 (f) The examiner shall not issue to an individual under
13 twenty-one years of age an identification card that does not
14 have the characteristics prescribed by the examiner
15 distinguishing it from the identification card issued to
16 individuals who are twenty-one years of age or older.

17 **§286-G Identification cards not to be altered; duties of**
18 **holder; lost certificates.** (a) No individual, except agents of
19 the examiner acting pursuant to the authority of law, shall
20 alter, deface, or destroy any identification card. Except as
21 specifically authorized by this section or the rules of the
22 director, no cardholder shall loan or give the individual's



1 identification card to any other individual, and no individual
2 shall use the identification card of any other individual.

3 (b) Any individual whose identification card is stolen or
4 otherwise lost, altered, defaced, or destroyed, may at any time
5 apply for a duplicate identification card. The duplicate shall
6 be issued by the examiner upon being satisfied as to such loss,
7 alteration, defacing, or destruction. In the case of an altered
8 or defaced identification card, the identification card, if
9 available, shall be surrendered by the cardholder and canceled
10 by the examiner.

11 (c) Any individual finding or coming into possession of
12 the identification card of any other individual shall promptly
13 return or deliver the same to the owner thereof.

14 **§286-H Correction or alteration of records and**
15 **identification cards in cases of error or subsequent changes**
16 **concerning names, citizenship, description, etc.** (a) If a
17 cardholder, after receiving an identification card, has a change
18 in one or more of the following:

19 (1) Name, legally changed by marriage, divorce, adoption,
20 legitimization, order of the lieutenant governor, or
21 other legal means;

22 (2) Citizenship status;



1 (3) Address; or
2 (4) Individual in charge of the cardholder (in the case of
3 a minor or incompetent individual),
4 then within thirty days after the change, the individual shall
5 report the change and present the cardholder's identification
6 card to the examiner. The examiner, upon being satisfied as to
7 the change and receiving payment of the fee, shall cancel the
8 identification card and issue a new identification card bearing
9 the new name, citizenship status, or address of the cardholder,
10 making appropriate notation of the facts upon the records of the
11 examiner.

12 (b) If any error has been made in any item of information
13 contained in the records of the examiner or on the
14 identification card concerning any cardholder, the examiner, by
15 the examiner's own motion, or the cardholder, upon application,
16 and upon receipt of satisfactory evidence that an error has been
17 committed and with the approval of the examiner, may correct the
18 error and, in such case, shall make appropriate changes or
19 notations stating the error and the correct information in the
20 records of the examiner and on the identification card.

21 (c) If any item of the cardholder's personal information
22 that was originally correct and will change after issuance of



1 the identification card and the examiner finds the change
2 material, the examiner may register the change and alter the
3 records and identification card to conform thereto, upon receipt
4 of satisfactory evidence of the change and approval of the
5 examiner.

6 **§286-I Rules.** For the purpose of carrying out this part,
7 the director, subject to chapter 91, shall adopt rules having
8 the force and effect of law including rules assessing reasonable
9 fees for the services provided under this part. The rules shall
10 provide for a waiver of any fee in cases of extreme hardship.

11 **§286-J Forms.** The director may prepare, prescribe, and
12 furnish, in conformity with this part, forms for questionnaires,
13 notices, fingerprint cards or forms, certificates of
14 identification, instructions, and all other forms necessary or
15 proper for the prompt, efficient, and adequate execution of the
16 functions of the examiner set forth in this part.

17 **§286-K Custody and use of records; confidential**
18 **information.** (a) All information and records acquired by the
19 examiner of drivers under this part shall be confidential. All
20 information and records shall be maintained in an appropriate
21 form and in an appropriate office in the custody and under the
22 control of the examiner. The information shall be available



1 only to authorized individuals under such restrictions as the
2 director shall prescribe. The examiner may dispose of any
3 application or identification card, or information or record
4 relating to such application or identification card, which does
5 not include a social security number, without regard to the
6 provisions of chapter 94, whenever, in the examiner's
7 discretion, retention of such information or record is no longer
8 required or practicable.

9 (b) No officer or employee of the examiner shall divulge
10 any information concerning any cardholder acquired from the
11 records of the examiner or acquired in the performance of any of
12 the officer's or employee's duties under this part to any
13 individual not authorized to receive the same pursuant to this
14 part. No individual acquiring from the records any information
15 concerning any cardholder shall divulge the information to any
16 individual not so authorized to receive the same.

17 **§286-L State identification card fee special fund.** There
18 is established in the state treasury a special fund to be known
19 as the state identification card fee special fund. The fund
20 shall consist of all fees assessed for the processing and
21 issuance of identification cards. The fund shall be used for
22 the purposes of the identification card program. The fund shall



1 be administered by the director. The fund shall be held
2 separate and apart from all other moneys, funds, and accounts in
3 the state treasury. Interest and investment earnings credited
4 to the assets of the fund shall become a part of the fund. Any
5 balance remaining in the fund at the end of any fiscal year
6 shall be carried over to the next fiscal year.

7 **§286-M Reimbursement to counties.** The counties shall be
8 reimbursed the incremental costs incurred in the administration
9 of this part. The amount of reimbursement shall be determined
10 by the director of transportation."

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

14 "Identification card" means a document made or issued
15 under the authority of this part that, when completed with
16 information concerning a particular individual, is intended
17 solely for the purposes of identification."

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

20 **"PART VI. MOTOR VEHICLE DRIVER LICENSING AND CIVIL**
21 **IDENTIFICATION CARDS"**



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

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

18 SECTION 6. Chapter 846, part III, Hawaii Revised Statutes,
19 is repealed.

20 SECTION 7. To provide for the transition to issuance of
21 non-driver's identification cards by the examiner of drivers,
22 all valid and unexpired non-driver's identification cards issued



1 by the department of the attorney general up to and including
2 December 31, 2012, shall remain valid for all purposes until
3 their stated expiration date.

4 SECTION 8. All rights, powers, functions, and duties of
5 the department of the attorney general as they relate to the
6 civil identification program are transferred to the department
7 of transportation; provided that the department of the attorney
8 general shall retain such authority as necessary to ensure
9 uniformity in the issuance of identification cards.

10 All officers and employees whose functions are transferred
11 by this Act shall be transferred with their functions and shall
12 continue to perform their regular duties upon their transfer,
13 subject to the state personnel laws and this Act.

14 No officer or employee of the State having tenure shall
15 suffer any loss of salary, seniority, prior service credit,
16 vacation, sick leave, or other employee benefit or privilege as
17 a consequence of this Act, and such officer or employee may be
18 transferred or appointed to a civil service position without the
19 necessity of examination; provided that the officer or employee
20 possesses the minimum qualifications for the position to which
21 transferred or appointed; and provided that subsequent changes



1 in status may be made pursuant to applicable civil service and
2 compensation laws.

3 An officer or employee of the State who does not have
4 tenure and who may be transferred or appointed to a civil
5 service position as a consequence of this Act shall become a
6 civil service employee without the loss of salary, seniority,
7 prior service credit, vacation, sick leave, or other employee
8 benefits or privileges and without the necessity of examination;
9 provided that such officer or employee possesses the minimum
10 qualifications for the position to which transferred or
11 appointed.

12 If an office or position held by an officer or employee
13 having tenure is abolished, the officer or employee shall not
14 thereby be separated from public employment, but shall remain in
15 the employment of the State with the same pay and classification
16 and shall be transferred to some other office or position for
17 which the officer or employee is eligible under the personnel
18 laws of the State as determined by the head of the department or
19 the governor.

20 SECTION 9. All deeds, leases, contracts, loans,
21 agreements, permits, or other documents executed or entered into
22 by or on behalf of the department of the attorney general or the



1 attorney general pursuant to the provisions of the Hawaii
2 Revised Statutes that are reenacted or made applicable to the
3 department of transportation or director of transportation by
4 this Act, shall remain in full force and effect. From
5 January 1, 2013, every reference to the department of the
6 attorney general or the attorney general shall be construed as a
7 reference to the department of transportation or the director of
8 transportation, as appropriate.

9 SECTION 10. All appropriations, records, equipment,
10 machines, files, supplies, contracts, books, papers, documents,
11 maps, and other personal property heretofore made, used,
12 acquired, or held by the department of the attorney general
13 relating to the functions transferred to the department of
14 transportation shall be transferred with the functions to which
15 they relate.

16 SECTION 11. This Act shall be liberally construed to
17 accomplish the purposes set forth in section 1.

18 SECTION 12. This Act does not affect rights and duties
19 that matured, penalties that were incurred, and proceedings that
20 were begun before its effective date.

21 SECTION 13. If any provision of this Act, or the
22 application thereof to any person or circumstance, is held



1 invalid, the invalidity does not affect other provisions or
2 applications of the Act that can be given effect without the
3 invalid provision or application, and to this end the provisions
4 of this Act are severable.

5 SECTION 14. All laws and parts of laws heretofore enacted
6 that are in conflict with the provisions of this Act are hereby
7 amended to conform herewith.

8 SECTION 15. In codifying the new sections by section 2 of
9 this Act, the revisor of statutes shall substitute appropriate
10 section numbers for the letters used in designating the new
11 sections in this Act.

12 SECTION 16. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 17. This Act shall take effect on January 1, 2013.

15

INTRODUCED BY:





Report Title:

Civil Identification; Driver's License; Department of the Attorney General; Department of Transportation

Description:

Transfers the non-driver's, or civil, identification program from the department of the attorney general to the department of transportation. Requires non-driver's identification cards to be issued by the examiners of drivers in each county to comply with the federal REAL ID Act of 2005, division B of P.L. 109-13, by January 1, 2013.

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

