
A BILL FOR AN ACT

RELATING TO DRIVER'S LICENSES.

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

1 SECTION 1. The legislature finds that Hawaii has the
2 highest percentage of transgender-identifying individuals in the
3 United States, and that overall they experience high levels of
4 discrimination in every area of life. Hawaii has been at the
5 forefront of policies offering protection to transgender people,
6 and should continue to take proactive measures.

7 The legislature further finds that a University of Hawaii
8 report found that gender-stereotypical policies and norms
9 continue to stigmatize and exclude transgender people in the
10 state. According to the state department of health's 2018
11 sexual and gender minority health report, the stigmatized
12 minority status of transgender individuals is causing negative
13 and disproportionate health outcomes, economic opportunities,
14 and sociopolitical power.

15 The legislature additionally finds that currently, the
16 limited purpose driver's license is sex-marked. The legislature
17 finds that sex markers on identity documents enable sex-identity



1 and gender-identity discrimination and are not rationally
2 related to a legitimate policy goal. Mandatory binary
3 classification does not accommodate the wide range of natural
4 biological variations or gender expressions. Additionally, it
5 is overly burdensome for transgender individuals to obtain a new
6 sex or gender on a driver's license. The existing statute
7 provides institutional cover for administrative agents to
8 express transgender animus.

9 The purpose of this Act is to allow transgender and gender-
10 nonconforming individuals to avoid invasive questioning and
11 discriminatory treatment by removing gender or sex markers from
12 limited purpose driver's licenses and limited purpose
13 provisional driver's licenses.

14 SECTION 2. Section 286-104.5, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[+]§286-104.5[+] Limited purpose driver's license,
17 limited purpose provisional driver's license, and limited
18 purpose instruction permits. (a) Notwithstanding section
19 286-104(7) to the contrary, every person who submits an
20 application for a driver's license, provisional driver's
21 license, or instruction permit that satisfies the requirements



1 of this chapter except for the applicant's inability or refusal
2 to provide satisfactory proof of authorized presence in the
3 United States under federal law shall be issued a limited
4 purpose driver's license, a limited purpose provisional driver's
5 license, or a limited purpose instruction permit that is
6 uniquely identified in compliance with the REAL ID Act of 2005
7 upon satisfactory proof to the examiner of drivers of the
8 applicant's identity and residency in the State. The examiner
9 of drivers shall accept various types of documentation for the
10 purpose of establishing the applicant's identity and residency
11 in the State, which may be established by more than one
12 document. Acceptable documentation includes:

- 13 (1) A valid, unexpired consular identification document
14 issued by a consulate from the applicant's country of
15 citizenship or a valid, unexpired passport from the
16 applicant's country of citizenship;
- 17 (2) An original birth certificate or other proof of age,
18 as designated by the examiner of drivers;
- 19 (3) A current home utility bill, lease, or rental
20 agreement, or deed or title to real property in the
21 State, as designated by the examiner of drivers;



- 1 (4) A United States Department of Homeland Security Form
- 2 I-589, Application for Asylum and for Withholding of
- 3 Removal;
- 4 (5) An official school or college transcript that includes
- 5 the applicant's date of birth or a foreign school
- 6 record that is sealed and includes a photograph of the
- 7 applicant at the age the record was issued;
- 8 (6) An official school or college identification card that
- 9 includes the applicant's full name and a photograph of
- 10 the applicant at the time the identification was
- 11 issued;
- 12 (7) A United States Department of Homeland Security Form
- 13 I-20 or Form DS-2019;
- 14 (8) A United States Customs and Immigration Services
- 15 Deferred Action for Childhood Arrival Approval Letter;
- 16 (9) A valid identification card for health benefits;
- 17 (10) A valid identification card for an assistance or
- 18 social services program;
- 19 (11) A current voter registration card issued by the State;
- 20 (12) A wage stub issued in the last six months;
- 21 (13) An income tax return filed in the last two years;



- 1 (14) A social security card;
- 2 (15) One of the following documents which, if in a language
- 3 other than English, shall be accompanied by a
- 4 certified translation or an affidavit of translation
- 5 into English:
- 6 (A) Marriage license or divorce certificate;
- 7 (B) Foreign federal electoral photo card issued on or
- 8 after January 1, 1991;
- 9 (C) Foreign student identification card; or
- 10 (D) Foreign driver's license; or
- 11 (16) Other proof of Hawaii residency as designated by the
- 12 director.
- 13 (b) Except as otherwise provided in this subsection, every
- 14 application under this section shall be made upon the form and
- 15 in the manner required by section 286-111 and shall be
- 16 accompanied by the fee established for non-limited purpose
- 17 licenses or permits pursuant to section 286-111. The examiner
- 18 of drivers shall not require any applicant under this section to
- 19 furnish information regarding the applicant's eligibility or
- 20 ineligibility for a social security number. The examiner shall



1 not disclose the identity of any applicant who does not provide
2 a social security card or social security number.

3 (c) Every limited purpose driver's license, limited
4 purpose provisional driver's license, and limited purpose
5 instruction permit issued pursuant to this section shall on its
6 face and machine readable zone bear the phrase, "Not acceptable
7 for official federal purposes", and on its reverse bear the
8 phrase, "This license is issued only as a license to drive a
9 motor vehicle. It does not establish eligibility for
10 employment, voter registration, or public benefits", and be of a
11 unique design or color indication that clearly distinguishes
12 them from the State's compliant driver's licenses, provisional
13 driver's licenses, and instruction permits. If the United
14 States Department of Homeland Security determines that limited
15 purpose licenses or permits issued pursuant to this section do
16 not satisfy the requirements of title 6 Code of Federal
17 Regulations section 37.71, adopted pursuant to section 202 of
18 the REAL ID Act of 2005, Public Law 109-13, the examiner of
19 drivers, under the direction of the department, shall modify the
20 limited purpose licenses and permits issued pursuant to this



1 section only to the extent necessary to satisfy the requirements
2 of the federal law.

3 (d) Every limited purpose driver's license and limited
4 purpose provisional driver's license shall expire in accordance
5 with section 286-106, and every limited purpose instruction
6 permit shall expire in accordance with section 286-110.

7 (e) A limited purpose driver's license or limited purpose
8 provisional driver's license may be renewed in accordance with
9 section 286-107 and reactivated in accordance with section
10 286-107.5. A limited purpose instruction permit may be renewed
11 in accordance with section 286-110.

12 (f) It shall be a violation of law to discriminate against
13 a person because the person applied for, was denied, was issued,
14 holds, or presents a limited purpose driver's license, limited
15 purpose provisional driver's license, or limited purpose
16 instruction permit.

17 (g) A limited purpose license or limited purpose
18 instruction permit issued pursuant to this section shall not be
19 used to consider a person's citizenship or immigration status as
20 a basis for a criminal investigation, arrest, or detention.



H.B. NO. 1245

Report Title:

Limited Purpose Driver's Licenses; Provisional; Gender; Sex

Description:

Excludes gender or sex markers from limited purpose driver's licenses and limited purpose provisional driver's licenses.

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