



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. HOUSE PRINCIPLES ANALYSIS:

**Provide limited government** – The bill may raise the burden of proving identity on the part of an applicant appearing before the Department of Highway Safety and Motor Vehicles.

### B. EFFECT OF PROPOSED CHANGES:

#### Florida Driver's License Requirements

Section 322.08, F.S., contains the application requirements for a Florida Driver's License. The section requires the following information:

- Full name, gender, social security card number, county of residence and mailing address, country of birth, and a brief description.
- Proof of birth date satisfactory to the department.
- Proof of identity satisfactory to the department. Such proof must include one of the following documents issued to the applicant:
  - A driver's license or identification card from another jurisdiction that required the applicant to submit a document for identification which is substantially similar to a document required under [the next six potential requirements];
  - A certified copy of a United States birth certificate;
  - A United States passport;
  - A naturalization certificate issued by the United States Department of Homeland Security;
  - An alien registration receipt card (green card);
  - An employment authorization card issued by the United States Department of Homeland Security; or
  - Proof of nonimmigrant classification provided by the United States Department of Homeland Security, for an original driver's license.

#### Federal REAL ID Act of 2005

On May 11, 2005, President Bush signed into law the REAL ID Act of 2005.<sup>1</sup> Title II of the Act “directly imposes prescriptive driver's license standards.”<sup>2</sup> The REAL ID Act contains a provision regarding the verification of documents presented to a license-issuing state agency.<sup>3</sup> States must verify with all issuing agencies the issuance, validity, and completeness of all documents presented. The receiving entity also must verify a social security number, if given, with the Social Security Administration.

Basic driver's license standards also are contained in the act.<sup>4</sup> All licenses must contain the person's name, date of birth, gender, license number, digital photograph, and legal address and physical security features to prevent fraud or counterfeiting and a common machine-readable technology with defined data elements.

Any state that issues a driver's license that does not conform to the REAL ID Act requirements must ensure that the license states on its face that it does not conform to the federal standards.<sup>5</sup> The license also must use a unique design or color indicator to alert agencies that it does not comply.<sup>6</sup>

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<sup>1</sup> H.R. 1268, P.L. 109-13.

<sup>2</sup> *NCSL REAL ID Act of 2005 Title Summary*, National Conference of State Legislators, available online here: <http://www.ncsl.org/standcomm/sctran/realidssummary05.htm>.

<sup>3</sup> See generally REAL ID Act, s. 202(c)(3)(A), s. 202(d)(4), and s. 202(d)(5).

<sup>4</sup> See generally REAL ID Act, s. 202(c) and (d).

<sup>5</sup> REAL ID Act, s. 202(d)(11).

Ultimately, the Act merely prohibits *federal* agencies from relying on identification documents from states that are not in compliance with the standards. This prohibition begins three years after enactment of the bill.<sup>7</sup> At that time, the federal Secretary of State will begin certifying states that are in compliance with the standards in the REAL ID Act.<sup>8</sup>

### Proposed Changes

The bill requires the Department of Highway Safety and Motor Vehicles (DHSMV), or their approved designated agent, to verify the social security number submitted by an applicant for a Florida driver's license or identification card. The social security number is verified against federal Social Security Administration and DHSMV records. The intent of the verification is to ensure that the number belongs to the applicant and is not a duplicate or fraudulent number.

The bill also sets forth a list of documents "acceptable to prove the identity of a person." The documents are:

- A valid, unexpired passport issued by the United States;
- An immigration document issued by the Federal Government;
- Any document issued by an agency of the Federal Government or the Armed Services of the United States which bears a photograph of the person;
- A valid, unexpired passport issued by a foreign government if the passport includes or is accompanied by a document proving that the alien is lawfully in the United States; or
- A valid, unexpired identification document issued by another state or political subdivision, if the document:
  - Bears a recent photograph of the person;
  - Is issued by a state or political subdivision which prohibits the issuance of identification cards to illegal immigrants; and
  - The state or political subdivision requires independent verification of the records offered by the person to prove identity when applying for the identification document.

The bill specifically states that it does not apply to Part II of Chapter 97, F.S, which is the Florida Voter Registration Act.

#### C. SECTION DIRECTORY:

Section 1 creates an unnumbered statute requiring verification of social security numbers of DHSMV applicants, and providing a list of documents suitable for verification of identity.

Section 2 provides an effective date of July 1, 2006.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

The bill does not create, modify, amend, or eliminate a state revenue source.

##### 2. Expenditures:

The bill may result in an unspecified expenditure related to systems changes required to meet the verification standards promulgated by the bill.

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<sup>6</sup> *Id.*

<sup>7</sup> Presumably May 11, 2008. See REAL ID Act s. 202(a)(1).

<sup>8</sup> REAL ID Act, s. 202(a)(2).

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

The bill does not create, modify, amend, or eliminate a local revenue source.

2. Expenditures:

The bill does not create, modify, amend, or eliminate a local expenditure.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

Other Comments: Identity Verification

It is unclear to what agencies the second paragraph applies. In the original bill the "reliable documents" section applied to all agencies receiving applications for "public benefits, licenses, or permits." As a result of the amendment, there does not appear to be any specific agency directed to follow the standards delineated in the second paragraph.

The requirements are similar (if not identical)<sup>9</sup> to those contained in the federal REAL ID Act of 2005 and appear to be an attempt to coordinate with the REAL ID Act in advance of the federal deadline in 2008. However, there is no clear connection between the provisions of subsection (1) regarding social security number verification and the much larger set of requirements contained in subsection (2).

Other Comments: Photo ID

The bill requires photographic identification to include a "recent" photograph, but no direction is given regarding the definition of "recent."

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

On March 29, 2006, the Governmental Operations Committee adopted an amendment requiring the Department of Highway Safety and Motor Vehicles to verify the veracity of a social security number received by an applicant for a Florida driver's license or identification card.

<sup>9</sup> See REAL ID Act, s. 202(b)(1) through (9).

The amendment removed a provision directing all agencies that accept applications for “public benefits, licenses, or permits” to follow the “reliable documents” section of the bill.