

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 235 Requirements for Driver Licenses

SPONSOR(S): Bracy

TIED BILLS: **IDEN./SIM. BILLS:** SB 986

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	13 Y, 0 N	Kiner	Miller
2) Transportation & Economic Development Appropriations Subcommittee	11 Y, 0 N	Rayman	Davis
3) Economic Affairs Committee	14 Y, 2 N	Kiner	Creamer

SUMMARY ANALYSIS

House Bill 235 adds to the list of documents the Department of Highway Safety and Motor Vehicles (DHSMV) may accept as 'proof of identity' in connection with an application for a temporary driver license. Specifically, the bill authorizes DHSMV to accept a notice of an approved application for 'Deferred Action for Childhood Arrivals' (Deferred Action) status as proof of identity and legal presence. Under the bill, DHSMV may issue a temporary driver license to a person that has been granted Deferred Action status, if he or she is otherwise qualified.

While Deferred Action status provides temporary relief, it may be revoked at any time. Deferred Action is neither amnesty nor immunity; it neither provides lawful immigration status nor a path to a green card or citizenship. Further, Deferred Action status does not extend to any family members of the person granted Deferred Action status.

A temporary driver license issued under the bill's provisions will expire on the date a person's Deferred Action status expires, or if no date is specified, after one year. A person with Deferred Action status that has been issued a temporary driver license solely based on that status, may renew the driver license if his or her Deferred Action status is extended by the U.S. Citizenship and Immigration Services. However, the bill requires that the person renew in person, resubmit his or her driver license application, and provide proof of identity and legal presence. The provision also applies to an application for a replacement or duplicate driver license, as well as an address or name change.

The bill has an indeterminate positive fiscal impact on the General Revenue Fund. The bill has an insignificant fiscal impact which DHSMV states it can absorb within existing resources.

The bill has an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Temporary Driver License Identity Requirements

Section 322.08, F.S., provides requirements that applicants must meet in order to be issued a driver license. Among the requirements is that the applicant provide proof of identity. Currently, an applicant must provide one of the following to meet the proof of identity requirement:

1. a driver license record or identification card record issued by another jurisdiction that required the applicant to submit identity documentation which is substantially similar to any of the documents listed in 2.-8.;
2. a certified copy of a United States (U.S.) birth certificate;
3. a valid U.S. passport;
4. a naturalization certificate issued by the U.S. Department of Homeland Security (DHS);
5. a valid alien registration receipt card (green card);
6. a Consular Report of Birth Abroad from the U.S. Department of State;
7. an unexpired employment authorization card issued by the U.S. DHS; or
8. proof of nonimmigrant classification provided by the U.S. DHS in the form of at least one of the following:
 - a. notice of hearing from an immigration court scheduling a hearing on any proceeding;
 - b. a notice from the Board of Immigration Appeals acknowledging pendency of an appeal;
 - c. a notice issued by the U.S. Bureau of Citizenship and Immigration Status approving an application for adjustment of status;
 - d. an official document issued by the U.S. Bureau of Citizenship and Immigration Status confirming a petition for asylum or refugee status;
 - e. a notice of action issued by the U.S. Bureau of Citizenship and Immigration Status transferring any pending matter to the state;
 - f. an order of an immigration judge or officer authorizing the person to live and work in the U.S. (e.g., asylum);
 - g. evidence that an application is pending for adjustment of status to that of an alien lawfully admitted for permanent residence or conditional permanent resident status in the U.S., if a visa number is available having a current priority date for processing by the U.S. Bureau of Citizenship and Immigration Services; or
 - h. an unexpired foreign passport with an unexpired U.S. Visa affixed, accompanied by an approved I-94, documenting the most recent admittance into the U.S.

If the applicant relies on any of the documentation listed in 7. or 8., his or her temporary driver license will expire on the date listed on the document or one year after issuance.

Deferred Action for Childhood Arrivals

Deferred Action for Childhood Arrivals (Deferred Action) is an initiative announced on June 15, 2012, by the U.S. DHS, which offers "Deferred Action," and effectively postpones the deportation of a person who was brought to the U.S. as a child, provided he or she meets other specific requirements.¹ When a person is granted "Deferred Action," the DHS has deemed him or her a low priority for immigration enforcement and has chosen to exercise its discretion to allow him or her to remain in the country, at least for the time being. While Deferred Action status provides temporary relief, it may be revoked at

¹ See information on Deferred Action for Childhood Arrivals status on the U.S. Citizenship and Immigration Services website at <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=f2ef2f19470f7310VgnVCM10000082ca60aRCRD&vgnnextchannel=f2ef2f19470f7310VgnVCM100000082ca60aRCRD> (Last viewed 3/24/13).

any time. Deferred Action is neither amnesty nor immunity; it does not provide lawful immigration status or a path to a green card or citizenship. Further, Deferred Action status does not extend to any family members of the person granted Deferred Action status.

A person may apply for Deferred Action status if he or she:

1. was under the age of 31 on of June 15, 2012;
2. came to the United States before reaching their 16th birthday;
3. has continuously resided in the United States since June 15, 2007, up to the present time;
4. was physically present in the United States on June 15, 2012, and at the time of making his or her application for Deferred Action;
5. entered the United States without inspection before June 15, 2012, or his or her lawful immigration status expired as of June 15, 2012;
6. is currently in school, has graduated or obtained a certificate of completion from high school, has obtained a general education development (GED) certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and
7. has not been convicted of a felony, significant misdemeanor, three or more other misdemeanors, and does not otherwise pose a threat to national security or public safety.

An application for Deferred Action status will only be considered if the applicant is age 15 or older, unless he or she is currently involved in a removal proceeding, or has a final order of removal or voluntary departure, in which case he or she may be under age 15.

If the application is accepted, Deferred Action status will be granted for a two-year period, after which a person may request to have his or her status renewed. According to DHS, a person will be eligible for a renewal of Deferred Action status as long as he or she was under age 31 on June 15, 2012.

According to DHSMV, a person that has received Deferred Action status is not currently eligible to receive a temporary driver license based on Deferred Action status alone. Rather, once a person receives Deferred Action status, he or she becomes eligible for an employment authorization card, and once the person receives an employment authorization card, the person is eligible to receive a temporary driver license or identification card.

The fee for a temporary driver license is \$48, which is deposited into the General Revenue Fund.

Effect of Proposed Change

The bill adds to the list of documents DHSMV may accept as 'proof of identity' in connection with an application for a temporary driver license. Specifically, the bill authorizes DHSMV to accept a notice of an approved application for 'Deferred Action for Childhood Arrivals' status as proof of identity and legal presence.

A temporary driver license issued under the bill's provisions will expire on the date a person's Deferred Action status expires, or if no date is specified, after one year. A person with Deferred Action status that has been issued a temporary driver license solely based on that status, may renew the driver license if his or her Deferred Action status is extended by the U.S. Citizenship and Immigration Services. However, the bill requires that the person renew his or her temporary driver license in person, resubmit his or her driver license application, and provide proof of identity and legal presence. The provision also applies to an application for a replacement or duplicate driver license, as well as an address or name change.

A person that qualifies for a temporary driver license under the bill's provisions will be required to pay the regular \$48 driver license fee, which is deposited into the General Revenue Fund.

The bill is effective on July 1, 2013.

B. SECTION DIRECTORY:

- Section 1: Amends s. 322.08, F.S., to authorize DHSMV to accept a notice of an approved application for 'Deferred Action for Childhood Arrivals' (Deferred Action) status as proof of identity and legal presence in connection with an application for a driver license;
- Section 2: Reenacts s. 322.17(3), F.S., to reenact a provision that requires a person claiming nonimmigrant classification status, including a person with Deferred Action status, to obtain a duplicate or replacement driver license in person, resubmit proof of identity documents and establish legal presence;
- Section 3: Reenacts ss.322.18(2)(d) and (4)(c), F.S., to reenact a provision that provides that a temporary driver license issued to a person claiming nonimmigrant classification status, including a person with Deferred Action status, will expire upon the expiration date cited on the identity document that was presented, or after one year;
- Section 4: Reenacts s. 322.19(4), F.S., to reenact a provision that requires a person claiming nonimmigrant classification status, including a person with Deferred Action status, to make an address or name change in person, resubmit proof of identity documents and establish legal presence;
- Section 5: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
Indeterminate positive. See Fiscal Comments.
2. Expenditures:
Insignificant. See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.
2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

The fee for a temporary driver license is \$48, which is deposited into the General Revenue Fund. The number of persons with Deferred Action status that will qualify for and obtain a temporary driver license solely based on that status is unknown. However, DHSMV contends that the majority of those currently approved for Deferred Action status have also received an employment authorization card. Because a valid employment authorization card is currently acceptable as a 'proof of identity' document, the population of people that may be impacted by the bill's provisions is indeterminate. As such, the fiscal impact is indeterminate, but positive for the General Revenue Fund.

The department further states it can accommodate the 50 hours of programming costs within existing resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The effect of the proposed changes may require DHSMV to updates its Driver License Operations Manual to include standards for issuing a temporary driver license to a person that presents identity documentation solely based on his or her Deferred Action status.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES