

STORAGE NAME: h0223s2.ric.doc

DATE: February 15, 2002

HOUSE OF REPRESENTATIVES

COUNCIL FOR READY INFRASTRUCTURE ANALYSIS

BILL #: CS/CS/HB 223

RELATING TO: Driver's Licenses/Foreign Residents

SPONSOR(S): Council for Ready Infrastructure, Committee on Transportation, Representative(s) Ritter & others

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION YEAS 8 NAYS 0
 - (2) SECURITY, SELECT YEAS 9 NAYS 0
 - (3) COUNCIL FOR READY INFRASTRUCTURE YEAS 15 NAYS 2
 - (4)
 - (5)
-

I. SUMMARY:

Foreign residents may obtain a Florida driver's license or identification card (ID) and must establish proof of identity using documents issued by the U.S. Department of Justice, Immigration and Naturalization Service (INS). A driver's license is valid for 4 to 6 years, and an ID card is valid for 4 years. Licenses and ID cards can be renewed over the phone or via the Internet. In most cases, a license or ID card is valid longer than the INS document used to prove a foreign resident's identity.

The committee substitute:

- Requires that the applicant's place of birth be included in an application for a license or ID card;
- Provides that a driver's license or ID card from another state can be used only to prove identity for a Florida driver's license or ID card if that state requires substantially similar proof of identity as does Florida;
- Limits the period of validity of a foreign resident's driver's license or ID card to 4 years, or until the date cited in the INS documents used to prove identity, whichever occurs first.
- Requires foreign residents to appear in person to renew a driver's license or ID card, or to obtain a duplicate;
- Exempts permanent foreign residents who prove identity with an alien registration (green) card from the shortened validity period and from having to renew or obtain duplicates in person; and
- Makes it a third-degree felony to knowingly sell, manufacture, or deliver, or offer to do so, a blank, stolen, fictitious, counterfeit, or unlawfully issued driver's license or ID card, or instrument resembling a driver's license or ID card.

The committee substitute will require an estimated non-recurring expenditure by the Department of Highway Safety and Motor Vehicles (DHSMV) of \$83,700 for contracted programming modifications to the Driver License software systems.

On February 11, 2002, the Select Committee on Security adopted one amendment that is traveling with the bill. On February 14, 2002, the Council for Ready Infrastructure adopted one amendment and reported the bill favorably as a council substitute. See "Amendments or Committee Substitute Changes" section for additional information.

This bill takes effect October 1, 2002.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Lower Taxes and Less Government: The committee substitute establishes new government regulations with respect to obtaining, renewing, and duplicating driver's licenses and ID cards and establishes a criminal penalty, with fines, for certain activities relating to the sale, manufacture, and delivery of driver's licenses and ID cards.

Individual Freedom: The committee substitute decreases the opportunities individuals have to conduct their own lives without hindrance from the government by requiring certain foreign residents to appear in person to renew a driver's license or ID card, to obtain a duplicate, or to change a name or address instead of doing so over the phone or via the Internet.

B. PRESENT SITUATION:

Sections 322.051, and 322.08, F.S., establish requirements for issuance of Florida driver's licenses and identification cards. Persons seeking to obtain a driver's license or identification card must provide their full name, gender, social security number, residence and mailing address, and a brief description. Additionally, applicants must provide proof of birth date and identity that is satisfactory to the Department of Highway Safety and Motor Vehicles (DHSMV). Identification documents accepted by DHSMV for licensing purposes differ based on the applicant's citizenship.

United States citizens: Each U.S. citizen who applies for a driver's license or identification card must submit one of the following primary documents:

- Original or certified copy of a U.S. birth certificate;
- Valid U.S. passport; or
- Certificate of naturalization.

The applicant is also required to provide a secondary document to substantiate the required primary document. This document may include, but is not limited to:

- Social security card;
- Military identification card;
- Florida or out-of-state driver's license, valid or expired;
- Marriage certificate;
- School record stating date of birth and containing registrar's signature;
- Baptism certificate showing date of birth and place of baptism; or
- Court order including legal name.

Non-United States citizens: Each non-U.S. citizen who applies for a driver's license or identification card must submit:

- Valid Alien Registration Receipt Card, also referred to as a Permanent Resident Card or green card (Form I-151 or I-551); or
- Employment authorization card issued by the U.S. Department of Justice (DOJ) (Form I-688A or I-766); or
- Proof of nonimmigrant classification provided by the U.S. DOJ (Form I-94, accompanied by a passport). Certain nonimmigrant classifications require additional documentation.¹

Expiration and Renewal: Section 322.18, F.S., provides for the renewal of driver's licenses every 4 or 6 years, depending upon the terms of issuance. Identification cards are valid for a period of 4 years.² These periods of validity are, in most cases, longer than the periods for which U.S. Department of Justice, Immigration and Naturalization Service (INS) issued documents authorize the presence of a foreign resident in this country. This discrepancy allows a foreign resident here on a student, tourist, or other type of visa to remain in the United States beyond the expiration of the visa and still be able to present a valid form of government-issued identification when required.

In addition, Florida law currently allows DHSMV to issue 4- and 6-year license extensions by mail, electronic, or telephonic means, without reexamination, for two consecutive license expirations. Only after two extensions is the licensee required to appear in person for renewal and reexamination. Under this licensing and renewal process, a foreign resident who remains in this country illegally, could, in theory, maintain a valid driver's license for as long as 18 years.

In his Executive Order No. 01-300 issued in response to the September 11th terrorist attacks, the Governor ordered DHSMV to continue researching methods to reduce the fraudulent issue of driver's licenses. The order specifically directed DHSMV to begin:

- Electronic sharing of information with the Florida Department of Law Enforcement (FDLE) and other criminal justice agencies;
- Issuing 30-day temporary driving permits when time is necessary to research and verify an applicant's identity;
- Limiting the duration of driver's licenses to the duration of pertinent INS documents;
- Providing additional training to necessary personnel on foreign document verification and otherwise enhancing audit and quality control processes; and
- Retaining electronic copies of all foreign documents used to establish identity.

Following that Executive Order, DHSMV currently limits the validity period of a foreign resident's driver's license to the period of time that the INS document used to obtain the driver's license remains valid. DHSMV interprets Florida Statutes as granting them this authority, although it is not expressly granted in the Statutes.

In addition, under s. 322.12, F.S., it is unlawful for any person to knowingly:

- Possess or display any blank, forged, stolen, fictitious, counterfeit, or unlawfully issued driver's license or ID card, or any instrument resembling a driver's license or ID card;

¹ Department of Highway Safety and Motor Vehicles website, <http://www.hsmv.state.fl.us>.

² s. 322.051(2), F.S.

- Possess any instrument resembling a driver's license issued by DHSMV, its agents, or the corresponding agency of another state;
- Possess any instrument resembling an ID card issued by DHSMV, its agents, or the corresponding agency of another state.

Violation of these provisions will usually constitute a third-degree felony punishable by up to 5 years imprisonment and a \$5,000 fine. However, it is only a second-degree misdemeanor when a driver's license or ID card is unlawfully issued as a result of a person giving a false age in an application for a driver's license or an ID card, or when a person possesses a driver's license, identification card, or a document resembling one of them, with an altered date of birth.

Florida law does not specifically prohibit a person from making or selling blank, forged, stolen, fictitious, counterfeit, or unlawfully issued driver's licenses, ID cards, or instruments resembling them.

Section 322.19, F.S., provides that whenever a licensee changes his or her legal name, that person must, within 10 days, obtain a replacement license that reflects the change. Similarly, this section provides that whenever a licensee changes the residence or mailing address in the application or license, the person must, within 10 calendar days, either obtain a replacement license that reflects the change or request in writing a change-of-address sticker.

C. EFFECT OF PROPOSED CHANGES:

The committee substitute makes a number of changes to laws relating to the issuance of Florida driver's licenses and ID cards. Currently when applying for a license or ID card, foreign residents must present certain U.S. DOJ documents to establish identity. This bill, in part, provides for license and ID card issuance requirements to be based on that documentation.

Florida Identification Cards

In addition to those requirements already existing for ID card applications, the bill amends s. 322.051, F.S., requiring an applicant to provide his or her place of birth on an ID card application. Also, ID cards or driver's licenses from other jurisdictions may only be used to establish an applicant's identity if such other jurisdiction required substantially similar documents to those required by Florida to establish identity.

The committee substitute provides that ID cards issued to foreign residents using certain U.S. DOJ documents (employment authorization card or proof of nonimmigrant classification) to establish identity shall expire 4 years from the date issued or upon the expiration date cited on the applicable DOJ document, whichever date occurs first. These cardholders are required to renew or obtain duplicate cards in person and may not do so over the phone or via the Internet.

The ID cards of foreign residents who use alien registration/green cards to document identity shall expire on the applicant's fourth birthday following the date of original issuance. After an initial showing of documentation, the applicant is exempted from renewing in person.

Florida Driver's Licenses

In addition to those requirements already existing for driver's license applications provided in s. 322.08, F.S., the bill requires that applications include an applicant's place of birth. Also, driver's licenses or ID cards from other jurisdictions may be used only to establish an applicant's identity for a Florida driver's license if such other jurisdiction required substantially similar documents to those required by Florida to establish identity.

In the case of foreign residents, the committee substitute limits the validity period of the Florida driver's license to 4 years or upon the expiration date cited in any INS document used to establish the applicant's identity, whichever occurs first. These licensees are required to renew or obtain duplicate cards in person by presenting appropriate INS documentation and may not do so over the phone or via the Internet. The committee substitute, however, provides that an applicant for a Florida driver's license establishing identity with an alien registration/green card is exempted from having to renew or obtain a duplicate in person, unless the renewal or duplication coincides with the periodic reexamination to which all drivers are subjected. The period of validity for foreign licensees proving identity with an alien registration/green card is 6 years, and the validity period does not coincide with the expiration date on any INS document.

Unlawful Acts in Relation to a Driver's License or Identification Card

The committee substitute amends s. 322.12, F.S., and makes it unlawful for any person to, without authorization from DHSMV, knowingly sell, manufacture, or deliver, or knowingly offer to sell, manufacture, or deliver a driver's license, ID card, or document resembling them that is: blank, forged, stolen, fictitious, counterfeit, or unlawfully issued.

Violation of this prohibition may be investigated by any state agency, including the Division of Alcoholic Beverages and Tobacco, and is punishable as a third-degree felony.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 322.051, F.S.; requires that a person's place of birth be included in an application for an ID card. Provides that driver's licenses or ID cards from other jurisdictions may be used only to prove identity for a Florida ID card if those jurisdictions require substantially the same proof of identity as does Florida. Restricts the period of validity of ID cards held by foreign residents to 4 years or up to the expiration date printed on INS documents used to prove identity (other than an alien registration/green card), whichever first occurs. Foreign residents proving identity with INS documents other than an alien registration/green card must appear in person to renew an ID card or obtain a duplicate.

Section 2. Amends s. 322.08, F.S.; requires that a person's place of birth be included in an application for a driver's license. Provides that driver's licenses or ID cards from other jurisdictions may be used only to prove identity for a Florida driver's license if those jurisdictions require substantially the same proof of identity, as does Florida.

Section 3. Amends s. 322.17, F.S.; provides that a person establishing proof of identity in an application for a driver's license or an instruction permit using an INS document other than an alien registration/green card must obtain a duplicate or replacement license or instruction permit in person.

Section 4. Amends s. 322.18, F.S.; provides that if a person establishes identity for a driver's license using an alien registration/green card, the license shall expire at midnight on the sixth birthday of the applicant following the date of original issue, and the applicant is exempted from having to renew or obtain a duplicate in person. If a person establishes identity for a driver's

license using any other acceptable INS document, the driver's license will expire in 4 years or upon the expiration date cited in the document, whichever occurs first. A person establishing identity for a driver's license with an alien registration/green card is exempted from having to renew or obtain a duplicate in person, but a person establishing identity with any other INS document must appear in person to renew or obtain a duplicate.

Section 5. Amends s. 322.19, F.S.; provides that a person establishing identity for a driver's license using an INS document other than an alien registration/green card must appear in person to change his or her name or address and must submit an INS document again as proof of identity.

Section 6. Amends s. 322.212, F.S.; prohibits any person from knowingly selling, manufacturing, delivering, or offering to sell, manufacture, or deliver, a blank, forged, stolen, fictitious, counterfeit, or unlawfully issued driver's license, ID card, or instrument resembling a driver's license or ID card. Provides that a violation may be investigated by any state agency and is punishable as a third-degree felony.

Section 7. Provides an effective date of October 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DHSMV estimates a non-recurring expenditure from the General Revenue Fund of \$83,000 for modifications to the driver license software system. This estimate assumes 620 hours of contracted programming modifications at a rate of \$135 per hour.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This committee substitute does not require cities or counties to expend funds, or to take actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This committee substitute does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This committee substitute does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On January 8, 2002, the Committee on Transportation adopted one amendment by Rep. Ritter. The "strike-everything" amendment addresses issues relating to identification cards and a number of technical issues raised by DHSMV. The amendment connects the expiration date of ID cards and driver's licenses to INS documents rather than visas. In addition, it requires foreign residents, except green card holders, to appear in person to renew or change a license or ID card. The bill was reported favorably as a committee substitute.

On February 11, 2002, the Select Committee on Security adopted one amendment by Rep. Ritter. This amendment provides that the investigation of crimes specified in the bill may be investigated by any law enforcement agency, including the Division of Alcoholic Beverages and Tobacco. The bill as originally drafted authorizes investigation by "any state agency" which would have excluded investigation by federal and local law enforcement agencies.

On February 14, 2002, the Council for Ready Infrastructure adopted one amendment by Representative Ball. The amendment reduces from second- to third-degree felony the new criminal offense created in the bill relating to the manufacturing or selling of a fictitious driver's license or ID card. The bill was reported favorably as a council substitute.

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VII. SIGNATURES:

COUNCIL FOR READY INFRASTRUCTURE:

Prepared by:

William C. Garner

Staff Director:

Phillip B. Miller

AS REVISED BY THE SELECT COMMITTEE ON SECURITY:

Prepared by:

Lynn Dodson

Staff Director:

Thomas J. Randle/Richard Hixson

AS FURTHER REVISED BY THE COUNCIL FOR READY INFRASTRUCTURE:

Prepared by:

Randy L. Havlicak

Council Director:

Thomas J. Randle