

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4743

STATE OF NEW JERSEY

DATED: DECEMBER 9, 2019

The Assembly Judiciary Committee reports favorably Assembly, No. 4743.

As reported, this bill creates two categories of basic driver's licenses, motorcycle licenses, probationary licenses, permits, and non-driver identification cards (hereinafter referred to collectively as licenses and identification cards). Under the bill, a person may apply for a standard license or identification card or a REAL ID license or identification card.

Requirements to obtain a REAL ID

A REAL ID license or identification card is to comply with the provisions of the federal "REAL ID Act of 2005," any amendatory or supplementary acts, and any federal regulations adopted thereunder.

An applicant for a REAL ID license or identification card is required to submit: (1) proof of identity and age; (2) two documents providing proof of New Jersey residency; (3) proof of the applicant's social security number or verification of ineligibility for a social security number in accordance with the "REAL ID Act of 2005;" and (4) proof that the applicant's presence in the United States is authorized under federal law.

Requirements for a Standard License or Identification Card

The bill allows a New Jersey resident who meets requirements for the issuance of a license or identification card, but who is unable to prove lawful presence in the United States, to receive a standard license or identification card if the person provides: (1) proof of identity and age; (2) two documents providing proof of New Jersey residency; and (3) proof of the person's social security number. If the person applying for a standard license or identification card does not have a social security number, the person is required to indicate, in a manner prescribed by the New Jersey Motor Vehicle Commission (MVC), that the person is not eligible to receive a social security number.

The bill also requires that a standard license or identification card indicate that the license or identification card is not to be accepted as identification for an official federal purpose and bear a unique design or color. An official federal purpose includes, but is not limited to accessing federal facilities, boarding federally regulated commercial aircraft, and entering nuclear power plants.

Requirements for Permits

The bill removes the requirement that an applicant for an examination permit or special learner's permit provide proof of lawful presence in the country and, instead, requires an applicant for an examination permit or special learner's permit to provide two documents providing satisfactory proof of residency in New Jersey. However, an applicant for a commercial driver license permit is required to submit satisfactory proof that the applicant's presence in the United States is authorized under federal law and proof of the applicant's social security number.

Information Obtained by MVC

Under the bill, any documents and personal information obtained by the MVC from an applicant for a standard license or identification card is confidential, is not to be considered a government record, and is not to be disclosed by the MVC for the purpose of investigation, arrest, citation, prosecution, or detention related to an applicant's citizenship or immigration status without the consent of the applicant or without a court order or subpoena.

However, the MVC is not to be restricted, prohibited, or prevented from maintaining, or sending to or receiving from federal immigration authorities information regarding citizenship or immigration status, lawful or unlawful, of any individual pursuant to certain provisions of federal law. A person that knowingly discloses any documents or personal information that violates this provision is guilty of a crime of the fourth degree. A crime of the fourth degree is punishable by up to 18 months imprisonment and a maximum fine of \$10,000.

Fees for Licenses and Identification Cards

Under the bill, the fee for a REAL ID license or identification card is greater than the fee for a standard license or identification card.

The chief administrator may waive the fee imposed for a duplicate license and identification card if the applicant, at the time of application:

- (1) is applying for a REAL ID license or REAL ID identification card;
- (2) currently holds a valid license to operate a motor vehicle or identification card issued by the MVC; and
- (3) is not eligible to renew the applicant's current license or identification card.

The chief administrator's authority to waive the duplicate fee expires on October 1, 2020. To obtain the fee waiver, an applicant for a REAL ID license or REAL ID identification card is required to surrender to the MVC the applicant's current license or identification card.

The bill permits the MVC to increase certain driver's license and endorsement fees by regulation including fees for issuance of a standard motorcycle license or endorsement, REAL ID motorcycle license, omnibus or school bus endorsement, standard basic driver's license, or REAL ID basic driver's license.

Elimination of Business Address for Licenses

The bill provides that an application for a driver's license or a renewal of a driver's license is to contain the street address of the applicant's residence at the time of application or renewal and is no longer permitted to contain the applicant's business address. The bill leaves the exception in current law to allow a victim of domestic violence to use a post office box as the address on the person's driver's license.

Anti-discrimination Provisions

The bill provides that possession of a standard license or identification card is not to be considered evidence of an individual's citizenship or immigration status and is not to be used as a basis for an investigation, arrest, citation, prosecution, or detention.

The bill provides that the holder of a standard license or identification card is to have the opportunity to obtain employment, accommodation, publicly assisted housing accommodation, for which the person meets all qualifications for receipt of under State or federal law, without discrimination by reason of holding or presenting a standard license or identification card.

However, this provision does not alter an employer's rights and obligations to obtain documentation evidencing identity and authorization for employment in accordance with certain provisions of federal law. An action taken by an employer that is required by a certain provision of federal law does not constitute a violation of this nondiscrimination provision.

Insurance

Under the bill, no insurance underwriting rule is to operate in a way that assigns risk to a rating plan on the basis of the insured holding a standard license.

Written Exam and Driver's Manual

The bill requires that the written examination (knowledge test) for a basic driver's license or validated permit be made available in English and each of the three languages most commonly spoken in New Jersey, other than English. The bill requires the chief administrator to publish the driver's manual on the MVC's website in English and each of the three languages. The chief administrator is required to periodically, but at least every five years, verify the three languages, other than English, most commonly spoken in New Jersey.

Public Awareness Campaign and Advisory Board

The bill requires the Chief Administrator of the MVC to establish a 24 month public awareness campaign to inform the public about the availability of and the requirements to obtain a standard and REAL ID license or identification card.

The bill also creates the "Standard and REAL ID Driver License and Identification Card Advisory Board" to review the MVC's

implementation of the provisions of the bill and the issuance of licenses and identification cards.

The advisory board is also to provide guidance to the MVC concerning public awareness and education of the differences between the standard and REAL ID licenses and identification cards and how to obtain standard and REAL ID licenses and identification cards. The advisory board is required to report to the Governor and Legislature its findings and recommendations no later than 12 months following the effective date of the bill. The advisory board terminates upon the submission of the report.

MINORITY STATEMENT

By Assemblymen Carroll and Peterson

American government's existence depends upon respect for the rule of law. We, as citizens, expect that our fellow citizens will know the law and obey it. We expect that when people break the law, punishment will follow; because we understand that if the law falls into disrespect, anarchy must necessarily follow.

As Americans, we understand and respect the rule of law, even when we disagree. We understand that the law is to be obeyed because it is the law, and that even laws we consider foolish or harmful must be obeyed until such time as they are properly changed.

We further understand that in our federal system of government, certain areas of authority are specifically delegated to the federal government, with any undelegated powers reserved to the states. Neither sovereign may, consistent with the Constitution, properly interfere with the powers of the other.

While immigration is a contentious topic, certain aspects should be beyond legitimate dispute. The United States Constitution expressly delegates to Congress the right to make "a uniform Rule of Naturalization." Put simply, no person may enter or remain in the United States except in conformity with federal law. While New Jersey need not expend scarce resources enforcing federal law – simple respect for the rule of law demands that New Jersey not act in a fashion inconsistent with federal immigration policy duly enacted by Congress.

Furthermore, the very act of facilitating illegal immigration represents a tacit endorsement of criminal activity. Crossing the border illegally is a crime; any person here illegally who secures employment does so illegally, likely committing numerous crimes in doing so. People flouting the rule of law should not be accorded any special benefits; instead, it should be the policy of the State of New Jersey that everyone should comply with the law. Our state should adopt no law that effectively facilitates the violation of federal law.

People who believe federal law to be in error are completely free to advocate that such federal law be changed. As Immanuel Kant wrote

in his essay “What is Enlightenment?”: Argue as you please, but obey! Free thoughts and free speech against the law is encouraged and is a right; subversion of the law should be discouraged and is a crime.

Until such time as federal law changes, New Jersey should take no action to actively undercut it. Policies that help facilitate the commission of additional wrongs – like making it easier to get an identification card or driver’s license they have no legal right to hold – are misguided at best.

Indeed, New Jersey government would advance the interests of its citizens by enthusiastically cooperating with federal authorities to encourage legal re-entry. We welcome the greater demand for our housing market. We welcome the labor-skills and unique abilities of all individuals, including immigrants. We welcome children who are ready and willing to learn in the best school system in the entire country.

In short, the benefit to New Jersey for cooperating with federal authorities to encourage legal immigration would be immense and immediate, both financially and spiritually, as the very presence of people who exist outside the law inevitably undercuts respect for the rule of law.

Advocates of the instant proposal believe themselves to be justified on the grounds that it would make life easier for those who should have entered legally. The asserted fears of interactions with the authorities could be instantly salved by getting right with the law and returning to their legal homeland, taking their families with them. The fear arises from the fact that they are breaking the law, which we as legislators are sworn by oath to uphold. Respect for the rule of law and our oath of office discourages easing their fear of the consequences of their illegal actions.

New Jersey will not reap any benefits from this proposal. All it will do is reward illegal behavior and facilitate the commission of further crimes by people who conclude that we simply are not serious about enforcing the law. Lawlessness should not be rewarded; it should be deterred, punished, or corrected.

The minority avers that people who find living here illegally too stressful or inconvenient should solve that problem by re-entering this nation’s sovereign borders legally. New Jersey should not be facilitating their lawbreaking; it should be acting to put an end to it. It is our sworn duty as legislators to do so.