

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 13-0503.01 Jery Payne x2157

SENATE BILL 13-251

SENATE SPONSORSHIP

Ulibarri and Morse, Aguilar, Carroll, Giron, Guzman, Heath, Hodge, Hudak, Johnston, Jones, Kefalas, Newell, Schwartz, Steadman, Tochtrop, Todd

HOUSE SPONSORSHIP

Melton, Moreno, Salazar

Senate Committees

Judiciary
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING DOCUMENTARY EVIDENCE NEEDED FOR AN INDIVIDUAL**
102 **TO BE ISSUED AN IDENTITY DOCUMENT BY THE DEPARTMENT OF**
103 **REVENUE, AND, IN CONNECTION THEREWITH, MAKING AN**
104 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill repeals a prohibition against issuing a driver's license or identification card to a person who is not lawfully present in the U.S. and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
April 24, 2013

sets documentary standards for proof of identity and residency. To be licensed, the person must prove the payment of taxes and provide, from the applicant's country of origin, a valid passport, consular identification card, or military identification. A person may provide an individual taxpayer identification number instead of a social security number. A driver's license or identification card will indicate that the holder is not a citizen of the United States.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 42-2-104, **amend** (3)
3 introductory portion and (3) (e); and **add** (6) as follows:

4 **42-2-104. Licenses issued - denied.** (3) The department shall not
5 issue ~~any~~ A license to:

6 (e) ~~Any~~ A person whose presence in the United States is in
7 violation of federal immigration laws;

8 (6) ~~THE DEPARTMENT SHALL NOT ISSUE A DRIVER'S LICENSE,~~
9 MINOR DRIVER'S LICENSE, OR INSTRUCTION PERMIT TO AN INDIVIDUAL
10 WHOSE AUTHORIZATION TO BE PRESENT IN THE UNITED STATES IS
11 TEMPORARY UNLESS THE INDIVIDUAL APPLIES UNDER AND COMPLIES WITH
12 PART 5 OF THIS ARTICLE.

13 **SECTION 2.** In Colorado Revised Statutes, 42-2-107, **amend** (1)
14 (c) as follows:

15 **42-2-107. Application for license or instruction permit -**
16 **anatomical gifts - donations to Emily Maureen Ellen Keyes organ and**
17 **tissue donation awareness fund - legislative declaration - repeal.**

18 (1) (c) The department ~~may~~ SHALL not issue a driver's or minor driver's
19 license to ~~any~~ A person who is not lawfully present in the United States.

20 **SECTION 3.** In Colorado Revised Statutes, 42-2-302, **add** (7) as
21 follows:

22 **42-2-302. Department may issue - limitations.** (7) ~~THE~~

1 DEPARTMENT SHALL NOT ISSUE AN IDENTIFICATION CARD TO AN
2 INDIVIDUAL WHOSE AUTHORIZATION TO BE PRESENT IN THE UNITED
3 STATES IS TEMPORARY UNLESS THE INDIVIDUAL APPLIES UNDER AND
4 COMPLIES WITH PART 5 OF THIS ARTICLE.

5 **SECTION 4.** In Colorado Revised Statutes, **add** part 5 of article
6 2 of title 42 as follows:

7 PART 5

8 COLORADO ROAD AND COMMUNITY SAFETY ACT

9 **42-2-501. Short title.** THIS PART 5 MAY BE KNOWN AND CITED AS
10 THE "COLORADO ROAD AND COMMUNITY SAFETY ACT".

11 **42-2-502. Legislative declaration.** THE PURPOSE OF THIS PART 5
12 IS TO AUTHORIZE AN INDIVIDUAL TO QUALIFY FOR A DRIVER'S LICENSE,
13 MINOR DRIVER'S LICENSE, INSTRUCTION PERMIT, OR IDENTIFICATION CARD
14 DESPITE THE INDIVIDUAL NOT BEING LAWFULLY PRESENT OR BEING
15 TEMPORARILY LAWFULLY PRESENT IN THE UNITED STATES. THIS PART 5
16 IS NOT INTENDED TO CHANGE OTHER QUALIFICATIONS, REQUIREMENTS, OR
17 CONSEQUENCES OF HOLDING THE DOCUMENT UNDER PARTS 1 TO 3 OF THIS
18 ARTICLE, ARTICLE 7 OF THIS TITLE, OR ANY OTHER PROVISION OF LAW. THE
19 SUSPENSION OR REVOCATION OF DRIVING PRIVILEGES, THE REQUIRED FEES,
20 FINANCIAL RESPONSIBILITY REQUIREMENTS, RULES OF THE ROAD,
21 ADMINISTRATIVE PROCEDURES AND HEARINGS, QUALIFICATIONS FOR A
22 DRIVER'S LICENSE, VIOLATIONS AND PENALTIES, AND OTHER PROVISIONS
23 THAT APPLY TO DRIVER'S LICENSES, MINOR DRIVER'S LICENSES,
24 INSTRUCTION PERMITS, AND IDENTIFICATION CARDS ARE NOT INTENDED TO
25 BE AFFECTED BY THIS PART 5.

26 **42-2-503. Definitions.** AS USED IN THIS PART 5, UNLESS THE
27 CONTEXT OTHERWISE REQUIRES:

1 (1) "IDENTIFICATION DOCUMENT" MEANS A DRIVER'S LICENSE,
2 MINOR DRIVER'S LICENSE, INSTRUCTION PERMIT, OR IDENTIFICATION CARD
3 ISSUED BY THE DEPARTMENT OF REVENUE UNDER PARTS 1 AND 3 OF THIS
4 ARTICLE.

5 (2) "PROOF OF RETURN FILING" MEANS THE DOCUMENT ISSUED
6 UNDER 39-21-113 (4) (b), C.R.S., THAT CERTIFIES THAT THE APPLICANT
7 FILED A COLORADO RESIDENT INCOME TAX RETURN.

8 (3) "TEMPORARILY PRESENT" MEANS A PERSON WHOSE AUTHORITY
9 TO LAWFULLY REMAIN IN THE UNITED STATES IS TEMPORARY AND WHO
10 QUALIFIES FOR A TEMPORARY IDENTIFICATION DOCUMENT CARD UNDER 49
11 U.S.C. SEC. 202 (c) (2) (C).

12 **42-2-504. Applicability. (1) This part 5.** THIS PART 5 APPLIES TO
13 IDENTIFICATION DOCUMENTS FOR INDIVIDUALS WHO ARE NOT CITIZENS OF
14 THE UNITED STATES AND WHO DO NOT HAVE PERMANENT RESIDENCY
15 STATUS.

16 (2) **Other provisions.** PARTS 1 TO 4 OF THIS ARTICLE AND ARTICLE
17 7 OF THIS TITLE APPLY TO IDENTIFICATION DOCUMENTS ISSUED UNDER THIS
18 PART 5, BUT THIS PART 5 SUPERCEDES PARTS 1 TO 3 OF THIS ARTICLE AND
19 ARTICLE 7 OF THIS TITLE FOR IDENTIFICATION DOCUMENTS ISSUED IN
20 COMPLIANCE WITH THIS PART 5.

21 (3) **Commercial driver's licenses.** THIS PART 5 DOES NOT
22 AUTHORIZE THE ISSUANCE OF A COMMERCIAL DRIVER'S LICENSE OR
23 COMMERCIAL DRIVING LEARNER'S PERMIT UNDER PART 4 OF THIS ARTICLE
24 TO A PERSON WHO IS NOT LAWFULLY PRESENT IN THE UNITED STATES.

25 **42-2-505. Identification documents - individuals not lawfully**
26 **present. (1) Documents issued.** AN INDIVIDUAL WHO IS NOT LAWFULLY
27 PRESENT MAY APPLY FOR AN IDENTIFICATION DOCUMENT IN ACCORDANCE

1 WITH THIS PART 5. THE DEPARTMENT SHALL ISSUE AN IDENTIFICATION
2 DOCUMENT TO AN APPLICANT WHO:

3 (a) QUALIFIES FOR THE DOCUMENT APPLIED FOR EXCEPT FOR
4 QUALIFICATIONS THAT CONFLICT WITH THIS SECTION;

5 (b) PRESENTS PROOF OF RETURN FILING FOR THE IMMEDIATELY
6 PRECEDING YEAR;

7 (c) DOCUMENTS AN INDIVIDUAL TAXPAYER IDENTIFICATION
8 NUMBER ISSUED BY THE UNITED STATES INTERNAL REVENUE SERVICE;
9 AND

10 (d) PRESENTS ONE OF THE FOLLOWING FROM THE APPLICANT'S
11 COUNTRY OF ORIGIN:

12 (I) A PASSPORT;

13 (II) A CONSULAR IDENTIFICATION CARD; OR

14 (III) A MILITARY IDENTIFICATION DOCUMENT.

15 (2) Document contents. (a) ON AN IDENTIFICATION DOCUMENT
16 ISSUED UNDER THIS SECTION, THE DEPARTMENT SHALL PLACE THE PHRASE
17 "NOT VALID FOR FEDERAL IDENTIFICATION, VOTING, OR PUBLIC BENEFIT
18 PURPOSES" CLEARLY DISPLAYED ON THE FACE AND INCORPORATED INTO
19 THE MACHINE READABLE ZONE. THE DEPARTMENT MAY USE A
20 SUBSTANTIALLY SIMILAR PHRASE IF REQUIRED BY FEDERAL LAW.

21 (b) THE DEPARTMENT SHALL DESIGN THE IDENTIFICATION
22 DOCUMENT ISSUED UNDER THIS SECTION TO BE DISTINGUISHABLE FROM
23 ANOTHER IDENTIFICATION DOCUMENT ISSUED UNDER THIS ARTICLE IN
24 COMPLIANCE WITH FEDERAL LAW.

25 **42-2-506. Identification documents - individuals temporarily**
26 **lawfully present. (1) AN INDIVIDUAL WHO IS TEMPORARILY PRESENT IN**
27 **THE UNITED STATES ___ MAY APPLY FOR AN IDENTIFICATION DOCUMENT**

1 UNDER THIS SECTION. THE DEPARTMENT SHALL ISSUE AN IDENTIFICATION
2 DOCUMENT IF:

3 (a) THE INDIVIDUAL:

4 (I) QUALIFIES FOR THE DOCUMENT APPLIED FOR EXCEPT FOR
5 QUALIFICATIONS THAT CONFLICT WITH THIS SECTION; AND

6 (II) PRODUCES DOCUMENTS THAT SATISFY THE DEPARTMENT THAT
7 THE INDIVIDUAL IS LAWFULLY PRESENT IN THE UNITED STATES; AND

8 (b) THE FEDERAL GOVERNMENT CONFIRMS THE INDIVIDUAL'S
9 STATUS, INCLUDING ELECTRONICALLY THROUGH THE SAVE OR SOLVE
10 SYSTEMS.

11 (2) Document contents. ON AN IDENTIFICATION DOCUMENT
12 ISSUED UNDER THIS SECTION, THE DEPARTMENT SHALL PLACE THE PHRASE
13 "NOT REAL ID COMPLIANT" CLEARLY DISPLAYED ON THE FACE.

14 **42-2-507. Taxpayer identification number - confidentiality.**
15 THE DEPARTMENT SHALL KEEP THE APPLICANT'S INDIVIDUAL TAXPAYER
16 IDENTIFICATION NUMBER CONFIDENTIAL AND SHALL NOT PLACE IT ON THE
17 APPLICANT'S DOCUMENT; EXCEPT THAT THIS CONFIDENTIALITY
18 REQUIREMENT DOES NOT EXTEND TO THE STATE CHILD SUPPORT
19 ENFORCEMENT AGENCY, THE DEPARTMENT, OR A COURT OF COMPETENT
20 JURISDICTION WHEN REQUESTING INFORMATION IN THE COURSE OF
21 ACTIVITIES AUTHORIZED UNDER ARTICLE 13 OF TITLE 26, C.R.S., OR
22 ARTICLE 14 OF TITLE 14, C.R.S.

23 **42-2-508. Fees - rule.** THE DEPARTMENT MAY PROMULGATE A
24 RULE IMPOSING AN ADDITIONAL FEE FOR ISSUANCE OF A DOCUMENT
25 ISSUED UNDER THIS PART 5 TO COVER THE DIRECT AND INDIRECT COST OF
26 IMPLEMENTING THIS PART 5.

27 **42-2-509. Renewal.** AN IDENTIFICATION DOCUMENT ISSUED UNDER

1 THIS PART 5 EXPIRES THREE YEARS AFTER ISSUANCE. THE HOLDER OF THE
2 DOCUMENT MUST APPLY FOR RENEWAL TO CONTINUE TO HOLD A VALID
3 IDENTIFICATION DOCUMENT.

4 **42-2-510. Peace officers - arrest authority.** AN IMMIGRATION
5 STATUS VIOLATION IS A FEDERAL OFFENSE. A PEACE OFFICER IS NOT
6 AUTHORIZED TO ARREST AN INDIVIDUAL MERELY FOR POSSESSING AN
7 IDENTIFICATION DOCUMENT ISSUED UNDER THIS PART 5.

8 **SECTION 5.** In Colorado Revised Statutes, **amend** 24-72.1-103
9 as follows:

10 **24-72.1-103. Identity documents - verifiable.** (1) EXCEPT AS
11 PROVIDED IN SUBSECTION (3) OF THIS SECTION, a public entity that
12 provides services shall not accept, rely upon, or utilize an identification
13 document to provide services unless it is a secure and verifiable
14 document.

15 (2) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, a
16 public entity that is issuing an identification card, license, permit, or
17 official document shall not authorize acceptance of an identification
18 document, nor shall a public official acting in an official capacity accept
19 an THE HOLDER'S identification document before issuing such OFFICIAL
20 documents, unless such THE identification document is a secure and
21 verifiable document.

22 (3) THE DEPARTMENT OF REVENUE MAY ISSUE A DRIVER'S LICENSE,
23 MINOR DRIVER'S LICENSE, INSTRUCTION PERMIT, OR IDENTIFICATION CARD
24 IN ACCORDANCE WITH PART 5 OF ARTICLE 2 OF TITLE 42, C.R.S., BUT THE
25 LICENSE, PERMIT, OR CARD IS NOT A SECURE AND VERIFIABLE DOCUMENT.

26 **SECTION 6.** In Colorado Revised Statutes, 24-76.5-103, **amend**
27 (4) (a) (I) as follows:

1 **24-76.5-103. Verification of lawful presence - exceptions -**
2 **reporting - rules.** (4) An agency or a political subdivision shall verify
3 the lawful presence in the United States of each applicant eighteen years
4 of age or older for federal public benefits or state or local public benefits
5 by requiring the applicant to:

6 (a) Produce:

7 (I) A valid Colorado driver's license or a Colorado identification
8 card issued pursuant to UNDER article 2 of title 42, C.R.S., UNLESS THE
9 APPLICANT HOLDS A LICENSE OR CARD ISSUED UNDER PART 5 OF ARTICLE
10 2 OF TITLE 42; or

11 **SECTION 7.** In Colorado Revised Statutes, 39-21-113, amend
12 (4) (b) as follows:

13 **39-21-113. Reports and returns - repeal - rule.**

14 (4) (b) (I) Nothing in This section shall be construed to DOES NOT
15 prohibit the delivery to a person or his or her duly authorized
16 representative of a copy of any return or report filed in connection with
17 his or her tax. Such copies THE COPY may be certified by the executive
18 director of the department of revenue or the head of any A group,
19 division, or subordinate department, as appointed by the executive
20 director in accordance with article 35 of title 24, C.R.S., and when so
21 certified shall be IS evidence equally with and in like manner as the
22 originals and may be received USED by the courts of this state A COURT as
23 evidence of the contents of the originals.

24 (II) AN INDIVIDUAL OR HIS OR HER DULY AUTHORIZED
25 REPRESENTATIVE MAY ALSO REQUEST PROOF OF RETURN FILING FOR
26 PARTICULAR TAX YEARS. FOLLOWING REQUEST AND PAYMENT OF THE
27 APPLICABLE FEE, THE DEPARTMENT SHALL PROVIDE PROOF OF RETURN

1 FILING FOR A PERIOD FOR WHICH THE TAXPAYER HAS FILED A RETURN AND
2 REQUESTED PROOF OF RETURN FILING. THE DEPARTMENT SHALL INCLUDE
3 IN THE PROOF OF FILING:

4 (A) THE INDIVIDUAL'S NAME;

5 (B) THE INDIVIDUAL'S ADDRESS AS SHOWN ON THE MOST
6 RECENTLY FILED RETURN;

7 (C) THE DATES OF THE TAX PERIODS OF THE REQUESTED RETURNS;

8 AND

9 (D) A STATEMENT AS TO WHETHER THE MOST RECENTLY FILED
10 RETURN WAS FILED AS A RESIDENT OF COLORADO, OR, IF A PART-YEAR
11 RESIDENT, THE DATE THE INDIVIDUAL ACQUIRED OR ABANDONED
12 RESIDENCY.

13 (III) THE DEPARTMENT SHALL PROMULGATE A RULE ESTABLISHING
14 AND CHARGING A FEE FOR THE ISSUANCE OF PROOF OF RETURN FILING. TO
15 BE VALID, THE CHARGE MUST BE BASED ON THE ACTUAL COST OF ISSUING
16 THE PROOF OF RETURN FILING.

17 **SECTION 8. Appropriation.** (1) In addition to any other
18 appropriation, there is hereby appropriated to the department of revenue,
19 for the fiscal year beginning July 1, 2013, the sum of \$855,686 and 6.2
20 FTE, or so much thereof as may be necessary for the implementation of
21 this act as follows:

22 (a) \$423,924 is from the general fund, of which \$33,924 is
23 allocated to the information technology division for the purchase of
24 computer center services and \$390,000 is allocated to the division of
25 motor vehicles for contract services;

26 (b) \$403,194 and 6.2 FTE is from the licensing services cash fund
27 created in section 42-2-114.5 (1), Colorado Revised Statutes, for

1 allocation to the division of motor vehicles; and

2 (c) \$28,568 is from the identification security fund created in
3 section 42-1-220 (1), Colorado Revised Statutes, for allocation to the
4 division of motor vehicles.

5 (2) In addition to any other appropriation, there is hereby
6 appropriated to the governor - lieutenant governor - state planning and
7 budgeting, for the fiscal year beginning July 1, 2013, the sum of \$33,924,
8 or so much thereof as may be necessary, for allocation to the office of
9 information technology, for the provision of computer center services for
10 the department of revenue related to the implementation of this act. Said
11 sum is from reappropriated funds received from the department of
12 revenue out of the appropriation made in paragraph (a) of subsection (1)
13 of this section.

14 **SECTION 9. Act subject to petition - effective date -**
15 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
16 the expiration of the ninety-day period after final adjournment of the
17 general assembly (August 7, 2013, if adjournment sine die is on May 8,
18 2013); except that, if a referendum petition is filed pursuant to section 1
19 (3) of article V of the state constitution against this act or an item, section,
20 or part of this act within such period, then the act, item, section, or part
21 will not take effect unless approved by the people at the general election
22 to be held in November 2014 and, in such case, will take effect on the
23 date of the official declaration of the vote thereon by the governor.

24 (2) This act applies to applications submitted on or after August
25 1, 2014.