

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 10, 2013
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB13-251 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, strike everything below the enacting clause and
2 substitute:
3 "SECTION 1. In Colorado Revised Statutes, 42-2-104, **add** (6)
4 as follows:
5 **42-2-104. Licenses issued - denied.** (6) THE DEPARTMENT SHALL
6 NOT ISSUE A DRIVER'S LICENSE, MINOR DRIVER'S LICENSE, OR INSTRUCTION
7 PERMIT TO AN INDIVIDUAL WHOSE AUTHORIZATION TO BE PRESENT IN THE
8 UNITED STATES IS TEMPORARY UNLESS THE INDIVIDUAL APPLIES UNDER
9 AND COMPLIES WITH PART 5 OF THIS ARTICLE.
10 **SECTION 2.** In Colorado Revised Statutes, 42-2-302, **add** (7) as
11 follows:
12 **42-2-302. Department may issue - limitations.** (7) THE
13 DEPARTMENT SHALL NOT ISSUE AN IDENTIFICATION CARD TO AN
14 INDIVIDUAL WHOSE AUTHORIZATION TO BE PRESENT IN THE UNITED
15 STATES IS TEMPORARY UNLESS THE INDIVIDUAL APPLIES UNDER AND
16 COMPLIES WITH PART 5 OF THIS ARTICLE.
17 **SECTION 3.** In Colorado Revised Statutes, **add** part 5 of article
18 2 of title 42 as follows:
19

PART 5

COLORADO ROAD AND COMMUNITY SAFETY ACT

20
21 **42-2-501. Short title.** THIS PART 5 MAY BE KNOWN AND CITED AS
22 THE "COLORADO ROAD AND COMMUNITY SAFETY ACT".
23 **42-2-502. Legislative declaration.** THE PURPOSE OF THIS PART 5
24 IS TO AUTHORIZE AN INDIVIDUAL TO QUALIFY FOR A DRIVER'S LICENSE,

1 MINOR DRIVER'S LICENSE, INSTRUCTION PERMIT, OR IDENTIFICATION CARD
2 DESPITE THE INDIVIDUAL NOT BEING LAWFULLY PRESENT OR BEING
3 TEMPORARILY LAWFULLY PRESENT IN THE UNITED STATES. THIS PART 5
4 IS NOT INTENDED TO CHANGE ANY OTHER BASIC REQUIREMENTS OR
5 CONSEQUENCES OF HOLDING THE DOCUMENT UNDER ANY OTHER
6 PROVISION OF LAW. THE SUSPENSION OF DRIVING PRIVILEGES, THE RULES
7 OF THE ROAD, THE NEED TO PASS A DRIVING TEST, AND SIMILAR
8 PROVISIONS ARE NOT BE AFFECTED BY THIS PART 5.

9 **42-2-503. Definitions.** AS USED IN THIS PART 5, UNLESS THE
10 CONTEXT OTHERWISE REQUIRES:

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

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

17 **42-2-504. Applicability.** (1) **This part 5.** THIS PART 5 APPLIES TO
18 IDENTIFICATION DOCUMENTS FOR INDIVIDUALS WHO ARE NOT CITIZENS OF
19 THE UNITED STATES AND WHO DO NOT HAVE PERMANENT RESIDENCY
20 STATUS.

21 (2) **Other provisions.** PARTS 1 TO 4 OF THIS ARTICLE AND ARTICLE
22 7 OF THIS TITLE APPLY TO IDENTIFICATION DOCUMENTS ISSUED UNDER THIS
23 PART 5, BUT THIS PART 5 SUPERCEDES PARTS 1 TO 4 OF THIS ARTICLE AND
24 ARTICLE 7 OF THIS TITLE FOR IDENTIFICATION DOCUMENTS ISSUED IN
25 ACCORDANCE WITH THIS PART 5.

26 **42-2-505. Identification documents - individuals not lawfully**
27 **present.** (1) **Documents issued.** AN INDIVIDUAL WHO IS NOT LAWFULLY
28 PRESENT MAY APPLY FOR AN IDENTIFICATION DOCUMENT IN ACCORDANCE
29 WITH THIS PART 5. THE DEPARTMENT SHALL ISSUE AN IDENTIFICATION
30 DOCUMENT TO AN APPLICANT WHO:

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

33 (b) PRESENTS PROOF OF RETURN FILING FOR THE IMMEDIATELY
34 PRECEDING YEAR;

35 (c) DOCUMENTS AN INDIVIDUAL TAXPAYER IDENTIFICATION
36 NUMBER ISSUED BY THE UNITED STATES INTERNAL REVENUE SERVICE;
37 AND

38 (d) PRESENTS ONE OF THE FOLLOWING FROM THE APPLICANT'S
39 COUNTRY OF ORIGIN:

40 (I) A PASSPORT;

41 (II) A CONSULAR IDENTIFICATION CARD; OR

1 (III) A MILITARY IDENTIFICATION DOCUMENT.

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

5 **42-2-506. Identification documents - individuals temporarily**
6 **lawfully present.** (1) AN INDIVIDUAL WHOSE AUTHORITY TO LAWFULLY
7 REMAIN WITHIN THE UNITED STATES IS TEMPORARY MAY APPLY FOR AN
8 IDENTIFICATION DOCUMENT UNDER THIS SECTION. THE DEPARTMENT
9 SHALL ISSUE AN IDENTIFICATION DOCUMENT IF:

10 (a) THE INDIVIDUAL:

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

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

15 (b) THE FEDERAL GOVERNMENT CONFIRMS THE INDIVIDUAL'S
16 STATUS, INCLUDING ELECTRONICALLY THROUGH THE SAVE OR SOLVE
17 SYSTEMS.

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

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

30 **42-2-508. Fees - rule.** THE DEPARTMENT MAY PROMULGATE A
31 RULE IMPOSING AN ADDITIONAL FEE FOR ISSUANCE OF A DOCUMENT
32 ISSUED UNDER THIS PART 5 TO COVER THE DIRECT AND INDIRECT COST OF
33 IMPLEMENTING THIS PART 5.

34 **42-2-509. Renewal.** AN IDENTIFICATION DOCUMENT ISSUED UNDER
35 THIS PART 5 EXPIRES THREE YEARS AFTER ISSUANCE. THE HOLDER OF THE
36 DOCUMENT MUST APPLY FOR RENEWAL TO CONTINUE TO HOLD A VALID
37 IDENTIFICATION DOCUMENT.

38 **42-2-510. Peace officers - arrest authority.** AN IMMIGRATION
39 STATUS VIOLATION IS A FEDERAL OFFENSE. A PEACE OFFICER IS NOT
40 AUTHORIZED TO ARREST AN INDIVIDUAL MERELY FOR POSSESSING AN
41 IDENTIFICATION DOCUMENT ISSUED UNDER THIS PART 5.

1 **SECTION 4.** In Colorado Revised Statutes, **amend** 24-72.1-103
2 as follows:

3 **24-72.1-103. Identity documents - verifiable.** (1) EXCEPT AS
4 PROVIDED IN PART 5 OF ARTICLE 2 OF TITLE 42, C.R.S., a public entity that
5 provides services shall not accept, rely upon, or utilize an identification
6 document to provide services unless it is a secure and verifiable
7 document.

8 (2) EXCEPT AS PROVIDED IN PART 5 OF ARTICLE 2 OF TITLE 42,
9 C.R.S., a public entity that is issuing an identification card, license,
10 permit, or official document shall not authorize acceptance of an
11 identification document, nor shall a public official acting in an official
12 capacity accept an identification document before issuing such
13 documents, unless such identification document is a secure and verifiable
14 document.

15 **SECTION 5.** In Colorado Revised Statutes, 24-76.5-103, **amend**
16 (4) (a) (I) as follows:

17 **24-76.5-103. Verification of lawful presence - exceptions -**
18 **reporting - rules.** (4) An agency or a political subdivision shall verify
19 the lawful presence in the United States of each applicant eighteen years
20 of age or older for federal public benefits or state or local public benefits
21 by requiring the applicant to:

22 (a) Produce:

23 (I) A valid Colorado driver's license or a Colorado identification
24 card issued pursuant to UNDER article 2 of title 42, C.R.S., UNLESS THE
25 APPLICANT HOLDS A LICENSE OR CARD ISSUED UNDER PART 5 OF ARTICLE
26 2 OF TITLE 42; or

27 **SECTION 6.** In Colorado Revised Statutes, 39-21-113, **amend**
28 (4) (b) as follows:

29 **39-21-113. Reports and returns - repeal - rule.**

30 (4) (b) (I) ~~Nothing in This section shall be construed to~~ DOES NOT
31 prohibit the delivery to a person or his or her duly authorized
32 representative of a copy of any return or report filed in connection with
33 his or her tax. ~~Such copies~~ THE COPY may be certified by the executive
34 director of the department of revenue or the head of ~~any~~ A group,
35 division, or subordinate department, as appointed by the executive
36 director in accordance with article 35 of title 24, C.R.S., and when so
37 certified ~~shall be~~ IS evidence equally with and in like manner as the
38 originals and may be ~~received~~ USED by ~~the courts of this state~~ A COURT as
39 evidence of the contents of the originals.

40 (II) AN INDIVIDUAL OR HIS OR HER DULY AUTHORIZED
41 REPRESENTATIVE MAY ALSO REQUEST PROOF OF RETURN FILING FOR

1 PARTICULAR TAX YEARS. FOLLOWING REQUEST AND PAYMENT OF THE
2 APPLICABLE FEE, THE DEPARTMENT SHALL PROVIDE PROOF OF RETURN
3 FILING FOR A PERIOD FOR WHICH THE TAXPAYER HAS FILED A RETURN AND
4 REQUESTED PROOF OF RETURN FILING. THE DEPARTMENT SHALL INCLUDE
5 IN THE PROOF OF FILING:

6 (A) THE INDIVIDUAL'S NAME;

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

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

10 AND

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

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

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

29 (2) This act applies to applications submitted on or after January
30 1, 2014."

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