

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

REVISED

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

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

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Senate Committees

Judiciary
Appropriations

House Committees

State, Veterans, & Military Affairs
Finance
Appropriations

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.

HOUSE
Amended 2nd Reading
May 6, 2013

SENATE
Amended 3rd Reading
April 25, 2013

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
11 PUB.L. 109-13, DIVISION B, TITLE II, 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; AND

5 (b) (I) SIGNS AN AFFIDAVIT THAT THE APPLICANT IS CURRENTLY A
6 RESIDENT AND PRESENTS PROOF OF RETURN FILING FOR THE IMMEDIATELY
7 PRECEDING YEAR AND EVIDENCE OF RESIDENCE IN COLORADO THAT
8 CONFORMS TO THE STANDARDS OF PUB.L. 109-13, DIVISION B, TITLE II,
9 SEC. 201 ET SEQ. OR ANY RULES PROMULGATED UNDER PUB.L. 109-13,
10 DIVISION B, TITLE II, SEC. 201 ET SEQ.; OR

11 (II) SIGNS AN AFFIDAVIT THAT THE APPLICANT HAS CONTINUOUSLY
12 BEEN A RESIDENT IN COLORADO FOR THE IMMEDIATELY PRECEDING
13 TWENTY-FOUR MONTHS AND PRESENTS EVIDENCE OF RESIDENCE IN
14 COLORADO FOR THE IMMEDIATELY PRECEDING TWENTY-FOUR MONTHS
15 THAT CONFORMS TO THE STANDARDS OF PUB.L. 109-13, DIVISION B, TITLE
16 II, SEC. 201 ET SEQ. OR ANY RULES PROMULGATED UNDER PUB.L. 109-13,
17 DIVISION B, TITLE II, SEC. 201 ET SEQ.; AND

18 (c) DOCUMENTS AN INDIVIDUAL TAXPAYER IDENTIFICATION
19 NUMBER ISSUED BY THE UNITED STATES INTERNAL REVENUE SERVICE;

20 (d) AFFIRMS IN AN AFFIDAVIT SIGNED BY THE APPLICANT THAT THE
21 APPLICANT HAS APPLIED TO BE LAWFULLY PRESENT WITHIN THE UNITED
22 STATES OR WILL APPLY TO BE LAWFULLY PRESENT AS SOON AS THE
23 APPLICANT IS ELIGIBLE; AND

24 (e) PRESENTS ONE OF THE FOLLOWING FROM THE APPLICANT'S
25 COUNTRY OF ORIGIN:

26 (I) A PASSPORT;

27 (II) A CONSULAR IDENTIFICATION CARD; OR

1 (III) A MILITARY IDENTIFICATION DOCUMENT.

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

8 (b) THE DEPARTMENT SHALL DESIGN THE IDENTIFICATION
9 DOCUMENT ISSUED UNDER THIS SECTION TO BE DISTINGUISHABLE FROM
10 ANOTHER IDENTIFICATION DOCUMENT ISSUED UNDER THIS ARTICLE IN
11 COMPLIANCE WITH FEDERAL LAW.

12 (3) Graduated driver's license requirements. TO BE ISSUED A
13 MINOR DRIVER'S LICENSE UNDER THIS SECTION, AN APPLICANT WHO IS
14 UNDER EIGHTEEN YEARS OF AGE MUST COMPLY WITH SECTION 42-2-104
15 (4).

16 **42-2-506. Identification documents - individuals temporarily**
17 **lawfully present. (1) AN INDIVIDUAL WHO IS TEMPORARILY PRESENT IN**
18 **THE UNITED STATES ___ MAY APPLY FOR AN IDENTIFICATION DOCUMENT**
19 **UNDER THIS SECTION. THE DEPARTMENT SHALL ISSUE AN IDENTIFICATION**
20 **DOCUMENT IF:**

21 (a) THE INDIVIDUAL:
22 (I) QUALIFIES FOR THE DOCUMENT APPLIED FOR EXCEPT FOR
23 QUALIFICATIONS THAT CONFLICT WITH THIS SECTION; AND

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

26 (b) THE FEDERAL GOVERNMENT CONFIRMS THE INDIVIDUAL'S
27 STATUS, INCLUDING ELECTRONICALLY THROUGH THE SAVE OR SOLVE

1 SYSTEMS.

2

3 **42-2-507. Taxpayer identification number - confidentiality.**

4 THE DEPARTMENT SHALL KEEP THE APPLICANT'S INDIVIDUAL TAXPAYER
5 IDENTIFICATION NUMBER CONFIDENTIAL AND SHALL NOT PLACE IT ON THE
6 APPLICANT'S DOCUMENT; EXCEPT THAT THIS CONFIDENTIALITY
7 REQUIREMENT DOES NOT EXTEND TO THE STATE CHILD SUPPORT
8 ENFORCEMENT AGENCY, THE DEPARTMENT, OR A COURT OF COMPETENT
9 JURISDICTION WHEN REQUESTING INFORMATION IN THE COURSE OF
10 ACTIVITIES AUTHORIZED UNDER ARTICLE 13 OF TITLE 26, C.R.S., OR
11 ARTICLE 14 OF TITLE 14, C.R.S.

12 **42-2-508. Fees - rule.** THE DEPARTMENT MAY PROMULGATE A
13 RULE IMPOSING AN ADDITIONAL FEE FOR ISSUANCE OF A DOCUMENT
14 ISSUED UNDER THIS PART 5 TO COVER THE DIRECT AND INDIRECT COST OF
15 IMPLEMENTING THIS PART 5.

16 **42-2-509. Renewal.** AN IDENTIFICATION DOCUMENT ISSUED UNDER
17 THIS PART 5 EXPIRES THREE YEARS AFTER ISSUANCE. THE HOLDER OF THE
18 DOCUMENT MUST APPLY FOR RENEWAL TO CONTINUE TO HOLD A VALID
19 IDENTIFICATION DOCUMENT.

20 **42-2-510. Peace officers - arrest authority.** AN IMMIGRATION
21 STATUS VIOLATION IS A FEDERAL OFFENSE. A PEACE OFFICER IS NOT
22 AUTHORIZED TO ARREST AN INDIVIDUAL MERELY FOR POSSESSING AN
23 IDENTIFICATION DOCUMENT ISSUED UNDER THIS PART 5.

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

26 **24-72.1-103. Identity documents - verifiable.** (1) EXCEPT AS
27 PROVIDED IN SUBSECTION (3) OF THIS SECTION, a public entity that

1 provides services shall not accept, rely upon, or utilize an identification
2 document to provide services unless it is a secure and verifiable
3 document.

4 (2) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, a
5 public entity that is issuing an identification card, license, permit, or
6 official document shall not authorize acceptance of an identification
7 document, nor shall a public official acting in an official capacity accept
8 an THE HOLDER'S identification document before issuing such OFFICIAL
9 documents, unless such THE identification document is a secure and
10 verifiable document.

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

15 **SECTION 6.** 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 7.** In Colorado Revised Statutes, 39-21-113, amend

1 (4) (b) as follows:

2 **39-21-113. Reports and returns - repeal - rule.**

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

13 (II) AN INDIVIDUAL OR HIS OR HER DULY AUTHORIZED
14 REPRESENTATIVE MAY ALSO REQUEST PROOF OF RETURN FILING FOR
15 PARTICULAR TAX YEARS. FOLLOWING REQUEST AND PAYMENT OF THE
16 APPLICABLE FEE, THE DEPARTMENT SHALL PROVIDE PROOF OF RETURN
17 FILING FOR A PERIOD FOR WHICH THE TAXPAYER HAS FILED A RETURN AND
18 REQUESTED PROOF OF RETURN FILING. THE DEPARTMENT SHALL INCLUDE
19 IN THE PROOF OF FILING:

20 (A) THE INDIVIDUAL'S NAME;

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

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

24 AND

25 (D) A STATEMENT AS TO WHETHER THE MOST RECENTLY FILED
26 RETURN WAS FILED AS A RESIDENT OF COLORADO, OR, IF A PART-YEAR
27 RESIDENT, THE DATE THE INDIVIDUAL ACQUIRED OR ABANDONED

1 RESIDENCY.

2 (III) THE DEPARTMENT SHALL PROMULGATE A RULE ESTABLISHING
3 AND CHARGING A FEE FOR THE ISSUANCE OF PROOF OF RETURN FILING. TO
4 BE VALID, THE CHARGE MUST BE BASED ON THE ACTUAL COST OF ISSUING
5 THE PROOF OF RETURN FILING.

6 **SECTION 8. Appropriation.** (1) In addition to any other
7 appropriation, there is hereby appropriated, out of any moneys in the
8 general fund, not otherwise appropriated, to the department of revenue,
9 for the fiscal year beginning July 1, 2013, the sum of \$436,292, or so
10 much thereof as may be necessary, to be allocated for the implementation
11 of this act as follows:

12 (a) \$7,725 to the executive director's office for the purchase of
13 legal services from the department of law;

14 (b) \$35,774 to the information technology division for the
15 purchase of computer center services; and

16 (c) \$392,793 to the division of motor vehicles for contract
17 services and document design.

18 (2) In addition to any other appropriation, there is hereby
19 appropriated to the department of law, for the fiscal year beginning July
20 1, 2013, the sum of \$7,725 and 0.1 FTE, or so much thereof as may be
21 necessary, for the provision of legal services for the department of
22 revenue related to the implementation of this act. Said sum is from
23 reappropriated funds received from the department of revenue out of the
24 appropriation made in paragraph (a) of subsection (1) of this section.

25 (3) In addition to any other appropriation, there is hereby
26 appropriated to the governor - lieutenant governor - state planning and
27 budgeting, for the fiscal year beginning July 1, 2013, the sum of \$35,774,

1 or so much thereof as may be necessary, for allocation to the office of
2 information technology, for the provision of computer center services for
3 the department of revenue related to the implementation of this act. Said
4 sum is from reappropriated funds received from the department of
5 revenue out of the appropriation made in paragraph (b) of subsection (1)
6 of this section. ■

7 **SECTION 9. Act subject to petition - effective date -**
8 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
9 the expiration of the ninety-day period after final adjournment of the
10 general assembly (August 7, 2013, if adjournment sine die is on May 8,
11 2013); except that, if a referendum petition is filed pursuant to section 1
12 (3) of article V of the state constitution against this act or an item, section,
13 or part of this act within such period, then the act, item, section, or part
14 will not take effect unless approved by the people at the general election
15 to be held in November 2014 and, in such case, will take effect on the
16 date of the official declaration of the vote thereon by the governor.

17 (2) This act applies to applications submitted on or after August
18 1, 2014.