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Martin
4/10/17

CS FOR HOUSE BILL NO. 74()

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

"An Act relating to the implementation of the federal REAL ID Act of 2005; relating to issuance of identification cards and drivers' licenses; relating to data sharing by the Department of Administration; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** AS 18.65.310(a) is amended to read:

(a) Upon payment of a \$15 fee, the department shall issue a card identical to the motor vehicle operator's license provided for in AS 28.15.111, except that the card shall be of a different color and shall state in bold type letters across the face of it that it is for identification purposes only. **Upon request of a person and upon payment of an additional \$20 fee, the department may issue an identification card under this section that is federally compliant.**

*** Sec. 2.** AS 18.65.310(b) is amended to read:

(b) A person may obtain an identification card provided for in (a) of this section by applying to the department on forms and in the manner prescribed by the

department. **The department shall include on the application for an identification card a requirement that the applicant indicate**

(1) that the applicant understands the options for identification cards available at the time of issuance; and

(2) the type of identification card that the applicant selects.

* **Sec. 3.** AS 18.65.310 is amended by adding new subsections to read:

(m) The department shall adopt regulations for the issuance of identification cards that are federally compliant. For identification cards that are federally compliant, the department

(1) shall copy, scan, or retain only the minimum number of documents required by P.L. 109-13, Division B (REAL ID Act of 2005), or other applicable state or federal law, for issuance of an identification card that is federally compliant;

(2) shall destroy, regularly and as close as practicable to the minimum amount of time required by P.L. 109-13, Division B (REAL ID Act of 2005), or other applicable state or federal law, any documents retained under (1) of this subsection; and

(3) may not copy, scan, or retain in any form a document that is not required to be retained under (1) of this subsection.

(n) The department shall continue to issue identification cards that are not federally compliant. Nothing in this section or regulations adopted under this section requires a person to be issued an identification card that is federally compliant. An applicant must clearly request an identification card that is federally compliant to obtain one. The state or a municipal government may not require a person to possess or use an identification card that is federally compliant. The state or a municipal government shall treat an identification card that is not federally compliant the same as an identification card that is federally compliant. For an identification card that is not federally compliant, the department

(1) shall retain an image of the face on the identification card for not more than one year after the expiration of the identification card; if an applicant does not receive an identification card, the department may not retain an image of the applicant's face;

(2) may not copy, scan, or retain in any form a document other than the application.

(o) An identification card expires on the person's birthday in the eighth year following issuance of the identification card. An identification card may be renewed within one year of its expiration upon proper application and payment of the required fee. Under regulations adopted by the department, the department may issue to a person an identification card with a duration of less than eight years if the person is authorized to stay in the United States for less than eight years or if the period of authorized stay is indefinite. The department shall issue the identification card for the period of the authorized stay. If the period of authorized stay is indefinite, the department may issue the identification card with a validity of one year.

(p) The department shall provide public information about the differences between identification cards and identification cards that are federally compliant. The department shall also provide the information to applicants for new and renewal identification cards at the time of application. At a minimum, the information must include a description of

(1) each type of identification card;

(2) the storage and sharing process for an applicant's information for an identification card and an identification card that is federally compliant; and

(3) the official purpose and limitations on the use of each type of identification card, including a description of the purposes for which an identification card that is federally compliant may be required and a description of alternatives to using an identification card that is federally compliant to serve those purposes.

(q) In this section, "identification card that is federally compliant" means an identification card issued by the state that has been certified by the United States Department of Homeland Security to be in compliance with the requirements of P.L. 109-13, Division B (REAL ID Act of 2005) and 6 C.F.R. Part 37, as amended.

* **Sec. 4.** AS 28.05 is amended by adding a new section to read:

Sec. 28.05.068. Prohibition on data sharing. If the department conveys, distributes, or communicates data to be used in a database, index, pointer system, or any other system managed by an entity other than the department, including the

American Association of Motor Vehicle Administrators, to comply with the requirements of P.L. 109-13, Division B (REAL ID Act of 2005), the department may not convey, distribute, or communicate to that entity any data not required to be conveyed, distributed, or communicated for the state to be certified by the United States Department of Homeland Security to be in compliance with the requirements of P.L. 109-13, Division B (REAL ID Act of 2005).

* **Sec. 5.** AS 28.15.041 is amended by adding new subsections to read:

(d) The commissioner shall adopt regulations for the issuance of drivers' licenses that are federally compliant. For drivers' licenses that are federally compliant, the department

(1) shall copy, scan, or retain only the minimum number of documents required by P.L. 109-13, Division B (REAL ID Act of 2005), or other applicable state or federal law, for issuance of a driver's license that is federally compliant;

(2) shall destroy, regularly and as close as practicable to the minimum amount of time required by P.L. 109-13, Division B (REAL ID Act of 2005), or other applicable state or federal law, any documents retained under (1) of this subsection; and

(3) may not copy, scan, or retain in any form a document that is not required to be retained under (1) of this subsection.

(e) The department shall continue to issue drivers' licenses that are not federally compliant. Nothing in this section or regulations adopted under this section requires a driver to be issued a driver's license that is federally compliant. An applicant must clearly request a driver's license that is federally compliant to obtain one. The state or a municipal government may not require a person to possess or use a driver's license that is federally compliant. The state or a municipal government shall treat a driver's license that is not federally compliant the same as a driver's license that is federally compliant. For a driver's license that is not federally compliant, the department

(1) shall retain an image of the face on the license for not more than one year after the expiration of the license; if an applicant does not receive a driver's license, the department may not retain an image of the applicant's face;

(2) may not copy, scan, or retain in any form a document other than the application.

(f) The department shall provide public information about the differences between drivers' licenses and drivers' licenses that are federally compliant. The department shall also provide the information to applicants for new and renewal drivers' licenses at the time of application. At a minimum, the information must include a description of

(1) each type of driver's license;

(2) the storage and sharing process for an applicant's information for a driver's license and a driver's license that is federally compliant; and

(3) the official purpose and limitations on use of each type of driver's license, including a description of the purposes for which a driver's license that is federally compliant may be required and a description of alternatives to using a driver's license that is federally compliant to served those purposes.

* **Sec. 6.** AS 28.15.061(b) is amended to read:

(b) An application under (a) of this section must

(1) contain the applicant's full legal name, date and place of birth, sex, and mailing and residence addresses;

(2) state whether the applicant has been previously licensed in the past 10 years as a driver and, if so, when and by what jurisdiction;

(3) state whether any previous driver's license issued to the applicant has ever been suspended or revoked or whether an application for a driver's license has ever been refused and, if so, the date of and reason for the suspension, revocation, or refusal;

(4) contain the applicant's social security number; the requirement of this paragraph only applies to an applicant who has been issued a social security number; [AND]

(5) contain other information that the department may reasonably require to determine the applicant's identity, competency, and eligibility; **and**

(6) require that the applicant indicate

(A) that the applicant understands the options for drivers'

licenses available at the time of issuance; and

(B) the type of driver's license that the applicant selects.

* **Sec. 7.** AS 28.15.101(a) is amended to read:

(a) Except as otherwise provided in this chapter, a driver's license expires on the licensee's birthday in the **eighth** [FIFTH] year following issuance of the license. A license may be renewed within one year of its expiration upon proper application, payment of the required fee, and except when a license is renewed under (c) of this section, successful completion of a test of the licensee's eyesight.

* **Sec. 8.** AS 28.15.101(d) is amended to read:

(d) Under regulations adopted by the department, the department may issue to a person a driver's license with a duration of less than **eight** [FIVE] years if the person is authorized to stay in the United States for less than **eight** [FIVE] years or the period of authorized stay is indefinite. The department shall issue the license for the period of the authorized stay. If the period of authorized stay is indefinite, the department **may** [SHALL] issue the license with a validity of one year. [THE DEPARTMENT SHALL PROVIDE THAT A PERSON RECEIVING A LICENSE WITH A DURATION OF LESS THAN FIVE YEARS UNDER THIS SUBSECTION MAY RENEW THE LICENSE WITHOUT A RENEWAL FEE DURING A PERIOD OF UP TO FIVE YEARS AFTER FIRST ISSUANCE OF THE LICENSE.]

* **Sec. 9.** AS 28.15.111(a) is amended to read:

(a) Upon successful completion of the application and all required examinations, and upon payment of the required fee, the department shall issue to every qualified applicant a driver's license indicating the type or general class of vehicles that the licensee may drive. The license must (1) display a distinguishing number assigned to the license; (2) display the licensee's full name, address, date of birth, brief physical description, and [COLOR] photograph; (3) display either a facsimile of the signature of the licensee or a space upon which the licensee must write the licensee's usual signature with pen and ink; (4) **physical security features designed to prevent tampering, counterfeiting, or duplication of the document for fraudulent purposes** [DISPLAY A HOLOGRAPHIC SYMBOL INTENDED TO PREVENT ILLEGAL ALTERATION OR DUPLICATION]; (5) display, for a

qualified applicant who is under 21 years of age, the words "UNDER 21"; and (6) to the extent the department is able, be designed to allow the electronic reading and electronic display of the information described under (2) of this subsection and the electronic reading and display and a physical display on the license that the person is restricted from purchasing alcoholic beverages under AS 04.16.160. A license may not display the licensee's social security number and is not valid until signed by the licensee. If facilities are not available for the taking of the photograph required under this section, the department shall endorse on the license, the words "valid without photograph."

* **Sec. 10.** AS 28.15.111 is amended by adding new subsections to read:

(d) The department may not engage in bulk sharing of facial images captured as a result of an application for a driver's license with a database, other than a database established by the state, regardless of whether the applicant applied for a driver's license that is federally compliant or a driver's license that is not federally compliant. The prohibition in this subsection does not apply to a commercial driver's license.

(e) A commercial driver's license must be federally compliant.

* **Sec. 11.** AS 28.15.271(b) is amended to read:

(b) In addition to the fees under (a) of this section,

(1) a person who renews a driver's license by mail shall pay a fee of \$1;

(2) a person who applies for a limited driver's license under AS 28.15.201 shall pay a fee of \$100; and

(3) a person who applies for reinstatement of a driver's license under AS 28.15.211 shall pay a fee of

(A) \$100 if the person's driver's license has, within the 10 years preceding the application, been suspended, revoked, or limited under the provisions of this chapter, except as provided by (C) of this paragraph, only once;

(B) \$250 if the person's driver's license has, within the 10 years preceding the application, been suspended, revoked, or limited under the provisions of this chapter, except as provided by (D) of this paragraph, two or

more times;

(C) \$200 if the person's driver's license has, within the 10 years preceding the application, been revoked under AS 28.35.030 or 28.35.032 only once; or

(D) \$500 if the person's driver's license has, within the 10 years preceding the application, been revoked under AS 28.35.030 or 28.35.032 two or more times;

(4) a person who applies for a driver's license that is federally compliant shall pay a fee of \$20.

* **Sec. 12.** AS 28.90.990(a) is amended by adding a new paragraph to read:

(32) "driver's license that is federally compliant" means a driver's license issued by the state that has been certified by the United States Department of Homeland Security to be in compliance with the requirements of P.L. 109-13, Division B (REAL ID Act of 2005).

* **Sec. 13.** AS 44.99.040(a)(2) is repealed.

* **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITIONAL PROVISIONS: REGULATIONS. The Department of Administration may adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulation.

* **Sec. 15.** Sections 13 and 14 of this Act take effect immediately under AS 01.10.070(c).

* **Sec. 16.** Except as provided in sec. 15 of this Act, this Act takes effect January 1, 2019.