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Martin
5/11/17

CS FOR SENATE BILL NO. 34(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATE 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.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE INTENT. It is the intent of the legislature that the state continue to work with the Alaska delegation in Congress to amend provisions of P.L. 109-13, Division B (REAL ID Act of 2005) that compromise the rights of Alaskans to the privacy of their personal information, while protecting the nation's efforts to combat terrorism.

*** Sec. 2.** 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

1 it is for identification purposes only. Upon request of a person and upon payment
2 of an additional \$20 fee, the department may issue an identification card under
3 this section that is federally compliant.

4 * **Sec. 3.** AS 18.65.310(b) is amended to read:

5 (b) A person may obtain an identification card provided for in (a) of this
6 section by applying to the department on forms and in the manner prescribed by the
7 department. The department shall include on the application for an identification
8 card a requirement that the applicant indicate

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

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

12 * **Sec. 4.** AS 18.65.310 is amended by adding new subsections to read:

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

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

19 (2) shall destroy, regularly and as close as practicable to 15 years after
20 the date of application unless otherwise required by another applicable state or federal
21 law, any documents retained under (1) of this subsection; and

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

24 (n) The department shall continue to issue identification cards that are not
25 federally compliant. Nothing in this section or regulations adopted under this section
26 requires a person to be issued an identification card that is federally compliant. An
27 applicant must clearly request an identification card that is federally compliant to
28 obtain one. The state or a municipal government may not require a person to possess
29 or use an identification card that is federally compliant unless the person is a state or
30 municipal employee and the duties of the person's job require the use of an
31 identification card that is federally compliant. The state or a municipal government

1 shall otherwise treat an identification card that is not federally compliant the same as
2 an identification card that is federally compliant. For an identification card that is not
3 federally compliant, the department

4 (1) shall retain an image of the face on the identification card for not
5 more than 15 years after the expiration of the identification card; if an applicant does
6 not receive an identification card, the department may not retain an image of the
7 applicant's face;

8 (2) shall scan and retain the minimum documents necessary for
9 issuance of the identification card; the department shall destroy any documents
10 retained one year after the identification card expires.

11 (o) An identification card expires on the person's birthday in the eighth year
12 following issuance of the identification card. An identification card may be renewed
13 within one year of its expiration upon proper application and payment of the required
14 fee. An identification card may be renewed by mail or on the department's Internet
15 website, except that an identification card may not be renewed by mail or on the
16 department's Internet website if the most recent renewal of the applicant's
17 identification card was by mail or on the department's Internet website. Under
18 regulations adopted by the department, the department may issue to a person an
19 identification card with a duration of less than eight years if the person is authorized to
20 stay in the United States for less than eight years or if the period of authorized stay is
21 indefinite. The department shall issue the identification card for the period of the
22 authorized stay. If the period of authorized stay is indefinite, the department shall issue
23 the identification card with a validity of up to eight years.

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

29 (1) each type of identification card;
30 (2) the storage and sharing process for an applicant's information for
31 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).

* **Sec. 5.** AS 28.05 is amended by adding a new section to read:

Sec. 28.05.068. Prohibition on data sharing. (a) 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).

(b) The department shall take all steps necessary to obtain from the entity an agreement that the state need not convey, distribute, or communicate social security numbers, in whole or in part, to participate in the database, index, pointer system, or other system.

(c) The department shall take all steps available to work with other states, the United States Department of Homeland Security, and any multistate entities in which the state participates to secure a means of compliance with P.L. 109-13, Division B (REAL ID Act of 2005), including through an interstate compact, that does not involve the storage or sharing of social security numbers, in whole or in part, with an interstate database, index, pointer system, or other system.

(d) The department

(1) may not share more than three digits of a person's social security number to determine whether a person has been issued a driver's license in another

1 state;

2 (2) may share the number of digits of a person's social security number
3 required by federal law.

4 (e) Notwithstanding (d)(1) of this section, the department may share up to five
5 digits but as few digits as feasible of a person's social security number to determine
6 whether a person has been issued a driver's license in another state if the department

7 (1) has taken all steps necessary to secure an agreement to use only
8 three digits of a person's social security number; and

9 (2) has been unable to secure an agreement to use only three digits of a
10 person's social security number.

11 (f) The department shall submit an annual report on the results of the efforts
12 required under (b) - (e) of this section to the senate secretary and chief clerk of the
13 house of representatives on or before January 31 of each year and notify the legislature
14 that the report is available.

15 * **Sec. 6.** AS 28.15.041 is amended by adding new subsections to read:

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

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

22 (2) shall destroy, regularly and as close as practicable to 15 years after
23 the date of application unless otherwise required by another applicable state or federal
24 law, any documents retained under (1) of this subsection; and

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

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

1 driver's license that is federally compliant unless the person is a state or municipal
2 employee and the duties of the person's job require the use of a driver's license that is
3 federally compliant. The state or a municipal government shall otherwise treat a
4 driver's license that is not federally compliant the same as a driver's license that is
5 federally compliant. For a driver's license that is not federally compliant, the
6 department

7 (1) shall retain an image of the face on the license for not more than 15
8 years after the expiration of the license; if an applicant does not receive a driver's
9 license, the department may not retain an image of the applicant's face;

10 (2) shall scan and retain the minimum documents necessary for
11 issuance of the driver's license; the department shall destroy any documents retained
12 one year after the driver's license expires.

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

18 (1) each type of driver's license;

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

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

25 * **Sec. 7.** AS 28.15.061(b) is amended to read:

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

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

29 (2) state whether the applicant has been previously licensed in the past
30 10 years as a driver and, if so, when and by what jurisdiction;

31 (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. 8.** 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. 9.** 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 shall issue the license with a validity of **up to eight years** [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. 10.** AS 28.15.111(a) is amended to read:

(a) Upon successful completion of the application and all required

1 examinations, and upon payment of the required fee, the department shall issue to
2 every qualified applicant a driver's license indicating the type or general class of
3 vehicles that the licensee may drive. The license must (1) display a distinguishing
4 number assigned to the license; (2) display the licensee's full name, address, date of
5 birth, brief physical description, and [COLOR] photograph; (3) display either a
6 facsimile of the signature of the licensee or a space upon which the licensee must write
7 the licensee's usual signature with pen and ink; (4) physical security features
8 designed to prevent tampering, counterfeiting, or duplication of the document for
9 fraudulent purposes [DISPLAY A HOLOGRAPHIC SYMBOL INTENDED TO
10 PREVENT ILLEGAL ALTERATION OR DUPLICATION]; (5) display, for a
11 qualified applicant who is under 21 years of age, the words "UNDER 21"; and (6) to
12 the extent the department is able, be designed to allow the electronic reading and
13 electronic display of the information described under (2) of this subsection and the
14 electronic reading and display and a physical display on the license that the person is
15 restricted from purchasing alcoholic beverages under AS 04.16.160. A license may not
16 display the licensee's social security number and is not valid until signed by the
17 licensee. If facilities are not available for the taking of the photograph required under
18 this section, the department shall endorse on the license, the words "valid without
19 photograph."

20 * **Sec. 11.** AS 28.15.111 is amended by adding new subsections to read:

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

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

27 * **Sec. 12.** AS 28.15.271(b) is amended to read:

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

29 (1) a person who renews a driver's license by mail shall pay a fee of
30 \$1;

31 (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. 13.** 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. 14.** AS 44.99.040(a)(2) is repealed.

* **Sec. 15.** AS 28.05.068(f) is repealed June 30, 2021.

* **Sec. 16.** 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

1 effective date of the law implemented by the regulation.

2 * **Sec. 17.** Sections 14 and 16 of this Act take effect immediately under AS 01.10.070(c).

3 * **Sec. 18.** Except as provided in sec. 17 of this Act, this Act takes effect January 1, 2019.