



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Administration

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April 5, 2017

The Honorable Jonathan Kreiss-Tomkins, Chair
House State Affairs Committee
Alaska Capitol Building, Room 120
Juneau, Alaska 99801

Dear Representative Kreiss-Tomkins,

Thank you for allowing me to address the House State Affairs Committee regarding the CS to HB 74, offered by the committee on April 4.

The Administration has now had time to more thoroughly review the CS and has identified areas of concern, outlined below.

The Department of Administration (DOA) and the Division of Motor Vehicles (DMV) strive to deliver the best customer service possible, providing for privacy and security in the most efficient, accessible way possible for Alaskans. The DMV has worked very hard to reduce wait times by streamlining processes with the goal of serving Alaskans faster while maintaining quality and security.

The Governor introduced HB 74 in response to requests from Alaskans across the state who need access to military bases for their employment and who desire to travel by air using their driver's license (DL) or state ID (ID).

Nothing in HB 74 allows the DMV to collect data beyond what is currently collected. The bill allows DMV to access existing databases to verify the authenticity of source documents such as birth certificates or immigration paperwork to ensure the identity of an applicant, preventing fraud and potential security threats, and protecting against identity theft.

The Governor's Legislative Office and DOA have had several meetings with the ACLU to address their concerns about HB 74. We agreed with the ACLU on some of their suggested changes; however, many of the issues brought up by the ACLU are far beyond the scope of this legislation, and some of their suggested amendments would make Alaska non-compliant with the REAL ID Act.

DOA has also met several times with members of both bodies to discuss concerns. As a result, we offered the amendment now included in Section 1 to increase the additional fee for a compliance

card from \$5 to \$10, to help offset the cost of both initial set up and production. We also suggested fixing Section 7 language to allow DMV the discretion to provide identification for a longer period than one year when appropriate, in response to Rep. Birch; however, the CS does not appear to incorporate that suggestion. DOA also submitted amendments to prohibit bulk photo sharing with entities outside of the State of Alaska.

The following list outlines the Administration's concerns and recommendations for changes to the CS, Version J, in order to address issues of compliance, public safety, customer service, and process.

1. Page 1, Line 10

ISSUE: Cost. Increases additional fee for a compliant identification card from \$5 to \$10. This was recommended by DOA to address concerns about the cost of implementation.

Solution: Keep

2. Page 2 Lines 5-7

ISSUE: Violation of other federal and state law. Requiring DMV to base records retention schedules solely on the REAL ID Act puts DMV in violation of other federal and state law.

Solution: Line 6, add "or other federal and state law" to end of that sentence.

3. Page 2 Lines 11-12

ISSUE: Non-compliance/Public Safety. The REAL ID Act requires DMV to retain images when an applicant renews an identification card, so this language makes Alaska non-compliant. Public Safety and other law enforcement agencies use historical photos for cases of fraud, identity theft, sex trafficking, missing persons, identification of remains, and other public safety needs. Limiting retention of photos to nine years would hamper those efforts.

Solution: Delete

4. Page 2 Lines 13-20

ISSUE: Non-compliance. The *Real ID Act* requires the DMV to keep these documents for compliant DLs/IDs.

Solution: Delete

5. Page 2 Lines 26-27

ISSUE: The State of Alaska and municipalities often require their employees to have the proper identification or licensures in order to work. This would remove the State and municipalities' ability to conduct business.

Solution: Line 27, after "compliant" – insert "unless federally compliant identification is required for employment."

6. Page 2 Lines 29-31

ISSUE: Public Safety. Public Safety and other law enforcement agencies use historical photos for cases of fraud, identity theft, sex trafficking, missing persons, identification of remains, and other public safety needs. Limiting retention of photos to nine years would hamper those efforts.

Solution: Delete

7. Page 3 Lines 2-7

Issue: This provision would require the DMV to store paper documents for non-compliant DLs/IDs. This would dramatically change the DL/ID experience for DL/ID holders from today's experience.

Customer Service:

- Non-compliant DL/ID customers would no longer be able to renew DLs/IDs online
- Non-compliant DL/ID customers would have to bring their source documents to the DMV at every renewal
- Because files can't be copied or scanned, customers who lose their non-compliant DL/ID and try to replace it in a community other than where the paper files are stored will have to wait for a file to be mailed before they can replace a DL/ID

Cost: The DMV does not currently store files in paper format. DMV does not have a system or space for the amount of paper that will be generated by this provision. DMV anticipates the need to rent additional office space, create a secure filing system, hire archiving staff to retain and destroy documents, and provide and mail files for research when needed. Currently, the DMV does approximately 500 searches each month to help customers obtain DLs/IDs.

Security: Even with a secure paper archive system, there is a risk of files being lost or stolen when being mailed or copied. The DMV would lose the ability to monitor when a file is accessed. With the computer archiving the DMV uses today, all action in the database is traced and monitored. Paper files are at risk for destruction by fire or other natural causes.

Fraud prevention: Not being able to store photos and documents electronically will hamper DPS access to images and documents necessary to establish fraud in cases where someone altered or replicated a DL/ID that was lost or stolen, limiting ability to investigate fraud and identity theft. It will make it harder for the victim of identity theft to recover.

8. Page 3 Lines 16-19

ISSUE: Process. DMV would be required to provide information to the public that is false. Applicants will **not** have an "option to use identification other than an identification card that is federally compliant when entering specified federal property and flying on a federally regulated commercial aircraft." The point of this bill is to provide Alaskans with a state-issued identification card that is federally compliant. If Alaska does not become compliant, Alaskans will have to secure other federally compliant identification.

Solution: Delete

9. Page 4 Lines 11-15

ISSUE: Multiple. By not defining “data” this could mean that DMV is no longer allowed to disclose any information in its possession unless covered by one of the two enumerated exceptions. There is no limiting language such as driver license data; any document in DMV’s possession, including documents subject to the public records act, may now be deemed data that DMV cannot convey, distribute, or communicate. DMV may now not be able to share data as it relates to vehicle liens, driver safety, or any other function performed by DMV. In short, data possessed by DMV cannot leave DMV’s possession unless it is going to a state entity.

Also, data that is currently exempt from confidentiality requirements under AS 28.10.505, including information needed by out-of-state law enforcement entities to conduct investigations, information related to vehicle recalls and safety, information related to insurance investigations, information provided to business entities to verify information provided to them, information used in connection with criminal, civil, administrative, or arbitration proceedings, information necessary to comply with commercial driver’s licensing, and information related to impounded vehicles may now not be disclosable. This would be unworkable as it is necessary to share driver and vehicle information with legitimate entities as they carry out their official functions.

Solution: Delete

10. Page 5 Lines 9-10

ISSUE: Non-compliance/Public Safety. The REAL ID Act requires DMV to retain images when an applicant renews a driver’s license. This language is confusing by referencing identification cards in the driver’s license title, and it makes Alaska non-compliant. Public safety issues previously outlined regarding images apply here as well.

Solution: Delete

11. Page 5 Lines 11-18

ISSUE: Non-compliance. Again, DMV is required to retain copies of these documents to be compliant.

Solution: Delete

12. Page 5 Lines 24-25

ISSUE: Process. Same issue as the identification cards language. The State of Alaska and municipalities often require their employees to have the proper identification or licensures in order to work. This would remove the State and municipalities’ ability to conduct business.

Solution: Line 25, after “compliant” - Insert “unless federally compliant identification is required for employment.”

13. Page 5 Lines 27-28

ISSUE: Public Safety. Same issue as the identification cards language. Public Safety and other law enforcement agencies use historical photos for cases of fraud, identity theft, sex trafficking, missing persons, identification of remains, and other public safety needs. Limiting retention of photos to 9 years could hamper those efforts.

Solution: Delete

14. Page 6 Lines 13-16

ISSUE: Process. DMV would be required to provide information to the public that is false. Applicants will **not** have an “option to use identification other than a driver’s license that is federally compliant when entering specified federal property and flying on a federally regulated commercial aircraft.” The point of this bill is to provide Alaskans with a state-issued driver’s license that is federally compliant. If Alaska does not become compliant, Alaskans will have to secure other federally compliant identification.

Solution: Delete

15. Page 6 Lines 24-31

ISSUE: Violation of Equal Protection law. First, the language requires DMV to offer non-U.S. citizens only a compliant driver’s license or identification card. This is a violation of equal protection as state laws must apply equally to aliens and citizens, absent compelling justifications. Second, the reference to identification cards on line 25 is not replicated in the second and third sentences on lines 28-31. Third, persons whose immigration status provides them with an indefinite stay would only be eligible for a one-year license or identification card, contrary to the request of committee members.

Solution: Remove “federally compliant” from all references. Line 30, change “shall” to “may.”

16. Page 7 Lines 26-30

ISSUE: Process. This language was added by DOA to address concerns about image sharing. DMV does not currently engage in bulk sharing of photos and supports codifying this practice into statute.

Solution: Keep

During the hearing on April 4, Rep. LeDoux asked about the costs associated with DLs and IDs. I misquoted the costs of compliant cards. To clarify, under the terms of the CS, a compliant ID will cost \$15 plus a \$10 fee (\$25 total); a compliant DL will cost \$20 plus a \$10 fee (\$30 total).

Another issue discussed in committee was the security of and access to DMV records. I would like to elaborate on my response.

How the DMV currently protects customer data:

- All central DMV databases are stored on state-of-the-art DMV servers located in ETS-managed datacenters in Anchorage and Juneau
- Physical access to datacenters is strictly controlled and monitored
- Data access to customer records containing Personally Identifiable Information (PII) is logged, restricted to the minimal access level required and monitored for all applications
- All employees and business partners are subject to background checks prior to hire
- Access to the in-state image verification system is strictly limited
- Public-facing online services and web pages containing customer-specific information use encrypted data transportation protocols and caching of information is disabled (i.e. close the web page, the data is wiped from memory).

Thank you again for the opportunity to reiterate our concerns about CS version J for HB 74 and offer suggestions. We have worked hard to address privacy, cost and other concerns of committee members, while addressing the DMV needs of Alaskans.

As always, we are available to answer any additional questions you may have.

Sincerely,

A handwritten signature in blue ink that reads "Leslie Ridle". The signature is written in a cursive, flowing style.

Leslie Ridle, Deputy Commissioner
Department of Administration

cc: Darwin Peterson, Legislative Director, Governor Bill Walker