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SENATE CS FOR HOUSE BILL NO. 16(RLS) am S

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE

Amended: 5/15/17

Offered: 5/13/17

Sponsor(s): REPRESENTATIVES THOMPSON, Wool, Claman, Ortiz, Kito, Spohnholz, Kopp, Birch

SENATOR Giessel

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to training regarding disabilities for police officers, probation officers,**
2 **parole officers, correctional officers, and village public safety officers; relating to rights**
3 **and responsibilities for drivers when encountering or being stopped by a peace officer;**
4 **relating to a voluntary disability designation on a state identification card and a driver's**
5 **license; relating to the implementation of the federal REAL ID Act of 2005; relating to**
6 **issuance of identification cards and drivers' licenses; relating to data sharing by the**
7 **Department of Administration; and providing for an effective date."**

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

9 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
10 to read:

11 LEGISLATIVE INTENT. It is the intent of the legislature that the state continue to
12 work with the Alaska delegation in Congress to amend provisions of P.L. 109-13, Division B
13 (REAL ID Act of 2005) that compromise the rights of Alaskans to the privacy of their

1 personal information, while protecting the nation's efforts to combat terrorism.

2 * **Sec. 2.** AS 18.65.220 is amended to read:

3 **Sec. 18.65.220. Powers.** The council has the power to

4 (1) adopt regulations for the administration of AS 18.65.130 -
5 18.65.290;

6 (2) establish minimum standards for employment as a police officer,
7 probation officer, parole officer, municipal correctional officer, and correctional
8 officer in a permanent or probationary position and certify persons to be qualified as
9 police officers, probation officers, parole officers, municipal correctional officers, and
10 correctional officers under AS 18.65.130 - 18.65.290;

11 (3) establish minimum criminal justice curriculum requirements for
12 basic, specialized, and in-service courses and programs for schools operated by or for
13 the state or a political subdivision of the state for the specific purpose of training
14 police recruits, police officers, probation officers, parole officers, municipal
15 correctional officers, and correctional officers; **the curriculum requirements**
16 **established under this paragraph must include training in**

17 **(A) recognizing people with disabilities;**

18 **(B) appropriate interactions with persons with disabilities;**

19 **(C) resources available to persons with disabilities and to**
20 **those interacting with persons with disabilities; and**

21 **(D) the requirements of Title II of the Americans with**
22 **Disabilities Act, 42 U.S.C. 12131 - 12165;**

23 (4) consult and cooperate with municipalities, agencies of the state,
24 other governmental agencies, universities, colleges, and other institutions concerning
25 the development of police officer, probation officer, parole officer, municipal
26 correctional officer, and correctional officer training schools and programs of criminal
27 justice instruction;

28 (5) employ an administrator and other persons necessary to carry out
29 its duties under AS 18.65.130 - 18.65.290;

30 (6) investigate when there is reason to believe that a police officer,
31 probation officer, parole officer, municipal correctional officer, or correctional officer

1 does not meet the minimum standards for employment; in connection with the
 2 investigation the council may subpoena persons, books, records, or documents related
 3 to the investigation and require answers in writing under oath to questions asked by
 4 the council or the administrator;

5 (7) charge and collect a fee of \$50 for processing applications for
 6 certification of police, probation, parole, municipal correctional, and correctional
 7 officers.

8 * **Sec. 3.** AS 18.65.310(a) is amended to read:

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

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

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

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

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

23 * **Sec. 5.** AS 18.65.310 is amended by adding new subsections to read:

24 (m) The department shall provide a method for a person to designate
 25 voluntarily on an identification card that the person has a disability, including a
 26 cognitive, mental, neurological, or physical disability, or a combination of them. The
 27 department shall create a discreet symbol to place on the identification card of a
 28 person requesting the designation. The method must provide a means by which the
 29 person may cancel the designation. The department may not charge a fee solely for the
 30 designation. To receive the designation, the person shall provide proof of the disability
 31 from a person licensed as a physician or physician assistant under AS 08.64, as a

1 naturopath under AS 08.45, as an advanced nurse practitioner under AS 08.68, or as a
 2 licensed psychologist under AS 08.86. Notwithstanding (a) of this section, the
 3 department may charge a fee of \$5 for replacement of a valid identification card with a
 4 new identification card with a disability designation and may charge a fee of \$5 for
 5 replacement of an identification card with a disability designation with a new
 6 identification card without a disability designation.

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

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

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

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

18 (o) The department shall continue to issue identification cards that are not
 19 federally compliant. Nothing in this section or regulations adopted under this section
 20 requires a person to be issued an identification card that is federally compliant. An
 21 applicant must clearly request an identification card that is federally compliant to
 22 obtain one. The state or a municipal government may not require a person to possess
 23 or use an identification card that is federally compliant unless the person is a state or
 24 municipal employee and the duties of the person's job require the use of an
 25 identification card that is federally compliant. The state or a municipal government
 26 shall otherwise treat an identification card that is not federally compliant the same as
 27 an identification card that is federally compliant. For an identification card that is not
 28 federally compliant, the department

29 (1) shall retain an image of the face on the identification card for not
 30 more than 15 years after the date of application; if an applicant does not receive an
 31 identification card, the department may not retain an image of the applicant's face;

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

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

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

- 22 (1) each type of identification card;
 23 (2) the storage and sharing process for an applicant's information for
 24 an identification card and an identification card that is federally compliant; and
 25 (3) the official purpose and limitations on the use of each type of
 26 identification card, including a description of the purposes for which an identification
 27 card that is federally compliant may be required and a description of alternatives to
 28 using an identification card that is federally compliant to serve those purposes.

29 (r) In this section, "identification card that is federally compliant" means an
 30 identification card issued by the state that has been certified by the United States
 31 Department of Homeland Security to be in compliance with the requirements of P.L.

1 109-13, Division B (REAL ID Act of 2005).

2 * **Sec. 6.** AS 18.65.670(c) is amended to read:

3 (c) The commissioner of public safety may adopt regulations related to village
4 public safety officers, including minimum standards and training, criteria for
5 community, municipality, or corporation participation, and the interaction between the
6 Department of Public Safety and village public safety officers. Regulations adopted by
7 the commissioner **of public safety** under this subsection may not prohibit village
8 public safety officers who otherwise meet minimum standards and training from
9 carrying firearms. **If the commissioner of public safety adopts regulations**
10 **regarding training for village public safety officers, at a minimum, that training**
11 **must include disability training that provides training in the subjects set out in**
12 **AS 18.65.220(3).** The commissioner of corrections may adopt regulations related to
13 the functions of village public safety officers providing probation and parole
14 supervision.

15 * **Sec. 7.** AS 28.05.011 is amended by adding a new subsection to read:

16 (c) If the department publishes a manual related to the safe and lawful
17 operation of a motor vehicle, the manual must include the rights and responsibilities of
18 drivers when encountering or being stopped by a peace officer.

19 * **Sec. 8.** AS 28.05 is amended by adding a new section to read:

20 **Sec. 28.05.068. Prohibition on data sharing.** (a) If the department conveys,
21 distributes, or communicates data to be used in a database, index, pointer system, or
22 any other system managed by an entity other than the department, including the
23 American Association of Motor Vehicle Administrators, to comply with the
24 requirements of P.L. 109-13, Division B (REAL ID Act of 2005), the department may
25 not convey, distribute, or communicate to that entity any data not required to be
26 conveyed, distributed, or communicated for the state to be certified by the United
27 States Department of Homeland Security to be in compliance with the requirements of
28 P.L. 109-13, Division B (REAL ID Act of 2005).

29 (b) Notwithstanding (a) of this section, the department may not convey,
30 distribute, or communicate to a private entity any scanned or stored documents
31 collected in order to carry out the provisions of AS 28.15.

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

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

11 (e) If the department has complied with (c) and (d) of this section and has
 12 been unable to secure a means of compliance with P.L. 109-13, Division B (REAL ID
 13 Act of 2005) that does not involve the storage or sharing of social security numbers, in
 14 whole or in part, the department shall take all steps necessary to minimize the number
 15 of digits of a social security number required to be stored or shared.

16 (f) The department may share only the least number of digits of a person's
 17 social security number necessary to comply with federal law that requires the
 18 department to determine whether a person has been issued a driver's license in another
 19 state.

20 (g) The department shall submit an annual report on the results of the efforts
 21 required under (c) - (f) of this section to the senate secretary and chief clerk of the
 22 house of representatives on or before January 31 of each year and notify the legislature
 23 that the report is available.

24 * **Sec. 9.** AS 28.15.041 is amended by adding new subsections to read:

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

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

31 (2) shall destroy, regularly and as close as practicable to 15 years after

1 the date of application unless otherwise required by another applicable state or federal
2 law, any documents retained under (1) of this subsection; and

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

5 (e) The department shall continue to issue drivers' licenses that are not
6 federally compliant. Nothing in this section or regulations adopted under this section
7 requires a driver to be issued a driver's license that is federally compliant. An
8 applicant must clearly request a driver's license that is federally compliant to obtain
9 one. The state or a municipal government may not require a person to possess or use a
10 driver's license that is federally compliant unless the person is a state or municipal
11 employee and the duties of the person's job require the use of a driver's license that is
12 federally compliant. The state or a municipal government shall otherwise treat a
13 driver's license that is not federally compliant the same as a driver's license that is
14 federally compliant. For a driver's license that is not federally compliant, the
15 department

16 (1) shall retain an image of the face on the license for not more than 15
17 years after the date of application; if an applicant does not receive a driver's license,
18 the department may not retain an image of the applicant's face;

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

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

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

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

30 (3) the official purpose and limitations on use of each type of driver's
31 license, including a description of the purposes for which a driver's license that is

1 federally compliant may be required and a description of alternatives to using a
2 driver's license that is federally compliant to serve those purposes.

3 * **Sec. 10.** AS 28.15.061(b) is amended to read:

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

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

7 (2) state whether the applicant has been previously licensed in the past
8 10 years as a driver and, if so, when and by what jurisdiction;

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

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

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

18 **(6) require that the applicant indicate**

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

20 **licenses available at the time of issuance; and**

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

22 * **Sec. 11.** AS 28.15.101(a) is amended to read:

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

28 * **Sec. 12.** AS 28.15.101(d) is amended to read:

29 (d) Under regulations adopted by the department, the department may issue to
30 a person a driver's license with a duration of less than **eight** [FIVE] years if the person
31 is authorized to stay in the United States for less than **eight** [FIVE] years or the period

1 of authorized stay is indefinite. The department shall issue the license for the period of
 2 the authorized stay. If the period of authorized stay is indefinite, the department shall
 3 issue the license with a validity of up to eight years [ONE YEAR. THE
 4 DEPARTMENT SHALL PROVIDE THAT A PERSON RECEIVING A LICENSE
 5 WITH A DURATION OF LESS THAN FIVE YEARS UNDER THIS SUBSECTION
 6 MAY RENEW THE LICENSE WITHOUT A RENEWAL FEE DURING A PERIOD
 7 OF UP TO FIVE YEARS AFTER FIRST ISSUANCE OF THE LICENSE].

8 * **Sec. 13.** AS 28.15.111(a) is amended to read:

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

29 * **Sec. 14.** AS 28.15.111 is amended by adding new subsections to read:

30 (d) The department shall provide a method, at the time that a driver's license is
 31 issued, by which the owner of a license may voluntarily designate on the license that

1 the owner has a disability, including a cognitive, mental, neurological, or physical
 2 disability, or a combination of them. The department shall create a discreet symbol to
 3 place on the driver's license of a person requesting the designation. The method must
 4 provide a means by which the owner may cancel the designation. The department may
 5 not charge a fee solely for the designation. To receive the designation, the person shall
 6 provide proof of the disability from a person licensed as a physician or physician
 7 assistant under AS 08.64, as a naturopath under AS 08.45, as an advanced nurse
 8 practitioner under AS 08.68, or as a licensed psychologist under AS 08.86. The
 9 department may charge a fee of \$5 for replacement of a valid driver's license with a
 10 new driver's license with a disability designation and may charge a fee of \$5 for
 11 replacement of a driver's license with a disability designation with a new driver's
 12 license without a disability designation.

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

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

19 * **Sec. 15.** AS 28.15.271(b) is amended to read:

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

21 (1) a person who renews a driver's license by mail shall pay a fee of
 22 \$1;

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

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

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

31 (B) \$250 if the person's driver's license has, within the 10 years

1 preceding the application, been suspended, revoked, or limited under the
 2 provisions of this chapter, except as provided by (D) of this paragraph, two or
 3 more times;

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

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

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

12 * **Sec. 16.** AS 28.90.990(a) is amended by adding a new paragraph to read:

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

17 * **Sec. 17.** AS 44.99.040(a)(2) is repealed.

18 * **Sec. 18.** AS 28.05.068(g) is repealed June 30, 2021.

19 * **Sec. 19.** The uncodified law of the State of Alaska is amended by adding a new section to
 20 read:

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

25 * **Sec. 20.** Sections 17 and 19 of this Act take effect immediately under AS 01.10.070(c).

26 * **Sec. 21.** Sections 1, 3, 4, 8 - 13, 15, and 16, AS 18.65.310(n) - (r), enacted by sec. 5 of this
 27 Act, and AS 28.15.111(e) and (f), enacted by sec. 14 of this Act, take effect January 1, 2019.