

Date of Hearing: March 21, 2022

ASSEMBLY COMMITTEE ON TRANSPORTATION

Laura Friedman, Chair

AB 1766 (Stone) – As Introduced February 2, 2022

SUBJECT: Department of Motor Vehicles: identification cards

Summary: Requires the Department of Motor Vehicles (DMV) to issue restricted identification cards to eligible applicants who are unable to verify that their presence in the United States is authorized under federal law. Specifically, **this bill:**

- 1) Requires DMV to issue restricted identification cards to eligible applicants who are unable to verify their legal presence in the United States as authorized under federal law, commencing no later than January 1, 2024.
- 2) Defines a government-issued identification card as a document issued by the federal, state, county, or municipal government that contains the name, date of birth, and picture of the person.
- 3) Requires identification cards to include a recognizable feature on the front of card, such as the letters “IC” instead of, and in the same font size as the letters “ID”.
- 4) Requires identification cards to bear the following notice: “This card is not acceptable for official federal purposes. It does not establish eligibility for employment, voter registration, or public benefits.”

EXISTING LAW:

- 1) Requires DMV to issue an original driver’s license to a person who is unable to submit satisfactory proof that their presence in the United States is authorized under federal law.
- 2) Requires licenses to include a recognizable feature on the front of card, such as the letters “DP” instead of, and in the same font size as the letters “DL”.
- 3) Requires licenses to bear the following notice: “This card is not acceptable for official federal purposes. This license is issued only as a license to drive a motor vehicle. It does not establish eligibility for employment, voter registration, or public benefits.”
- 4) Requires that the California Department of Corrections and Rehabilitation and DMV ensure that all eligible inmates released from state prison have a valid identification card.
- 5) Requires the California Research Bureau (CRB) to compile and submit to the Legislature and the Governor a report of any violations of anti-discrimination provisions set forth in AB 1660 (Alejo), Chapter 452, Statutes 2014 and Government Code Section 11135.

FISCAL EFFECT: Unknown

COMMENTS:

The issue of allowing the licensure of undocumented immigrants has been considered almost continually by the Legislature since the 1999-2000 Legislative Session. AB 60 (Alejo) Chapter 524, Statutes of 2013, introduced an alternative solution to the address this public policy issue. By using a model somewhat similar to the State of Washington, a person unable to provide a social security number (SSN) has the option to submit several alternative forms of documentation to show proof of identity and obtain a driver's license. According to a study published by Stanford researchers in 2017, since AB 60 implementation, there has been improved traffic safety with a significant decrease in hit-and-run collisions.

AB 60 declared that discrimination against AB 60 license holders is a violation of the Unruh Civil Rights Act, which outlaws discrimination by a business establishment. The law also bars authorities from inferring the citizenship or immigration status of the license holder as a basis for criminal investigation proceedings. The statute has since been amended by AB 1660 (Alejo) Chapter 452, Statutes 2014 and Government Code Section 11135 to include additional anti-discrimination protections and require the CRB to “compile and submit to the Legislature and the Governor a report of any violations” of these anti-discrimination provisions.

Prior to the passage of AB 60, several cities in California passed laws creating a municipal ID card. San Francisco County began issuing ID cards to undocumented immigrants in 2009, followed by the City of Oakland in 2013, and the City of Richmond in 2014. According to the City Ordinance, San Francisco passed this requirement in order to assist the “Many residents of the City and County of San Francisco - such as children and youth, the elderly, homeless, immigrants, students, and transgender individuals – [who] lack official government-issued identification. Without an accepted form of identification, these City residents are not able to participate in local commerce and other forms of civic engagement such as opening a bank account or obtaining a library card. Studies show that immigrant populations in particular are victimized by crime rates at similar to or greater than the general population but they report crime at lower rates than the general population.”

According to the author, “Identification cards enable inclusion and meaningful participation in our neighborhoods, cities, and our state. IDs allow one to open a bank account, obtain benefits, access healthcare, secure housing, and much more. However, if a person who is undocumented does not have meaningful access to a car or have the ability to take a driving test, they are rendered ineligible for a government-issued ID.

Those individuals may rely on gym memberships or college/university IDs *if* they have access to those institutions. Otherwise, they can use a passport or consular ID to corroborate their identities, however, this is an often risky “outing” process for those who are not legally present in the United States.

Individuals with mobility issues, disabilities such as epilepsy, and those who are older and develop degenerative eye, muscular, or cognitive diseases are not able to obtain driver's licenses and thus, do not have access to a state government-issued ID. Additionally, undocumented people leaving incarceration are also unable to obtain an original AB 60 driver's license because they cannot access a driving test in prison.

AB 1766 will expand ID access for all, regardless of immigration status. Under this bill, California ID eligibility will be expanded to approximately 1.6 million undocumented people.”

According to the Asian Law Alliance, who are supporting this bill, “Identification cards enable inclusion and meaningful participation in our neighborhoods, cities, and our state. ID’s allow one to open a bank account, obtain benefits, access healthcare, secure housing, and much more. AB 60 (Alejo, 2013) opened the door for undocumented people, who can provide proof of identity and California residency, to obtain a valid legal driver’s license. However, undocumented people who do not have access to a car or have the ability to take a driving test, particularly women, elders, and people with disabilities, are ineligible to obtain a government-issued ID.”

In recent years, there has been a concern about Immigration and Customs enforcement (ICE) using the DMV database to find the address of undocumented immigrants. The American Civil Liberties Union (ACLU) and the national Immigration Law Center (NILC) released a report in December 2018 for the purpose of providing “as much information as possible about how and what information is shared with the Department of Homeland Security (DHS) and its agencies, so that California residents can effectively weigh the risks and benefits of obtaining a driver’s license.” According to the report, between January 1st, 2017 and April 10th, 2018, DHS agencies made 594 inquiries to the DMV driver’s license database and 1,085 inquiries to the DMV vehicle registration database by telephone. In 2017, DHS agencies made 113 inquiries to the driver’s license database and 1,149 inquiries to the vehicle registration database through online access; and in the first three months of 2018, those agencies made 80 inquiries to the driver’s license database and 341 inquiries to the vehicle registration database.

To address this issue, the Legislature passed AB 1747 (Gonzalez) Chapter 589, Statutes of 2019, which limits the use of the state’s telecommunications system containing criminal history information for immigration enforcement purposes, and for purposes of investigating immigration crimes solely because criminal history includes violation of federal immigration.

Unlike AB 60 licenses, which are comingled with, and share the same identification markers as citizens or legal residents who opted not to get a REAL ID Card, this bill creates an ID card separate from citizens and legal residents ID cards and bares the identifier “IC” on the card, as well as a notification that: “This card is not acceptable for official purposes. It does not establish eligibility for employment, voter registration, or public benefits.”

Committee Concerns: When considering privacy issues, it is important for the information related to the issuance of identification cards to be integrated into an existing database. Creating a separate system for identification cards makes it easier for law enforcement organizations such as ICE to subpoena records by making it easier for them to get a list of everyone who has an “IC” card in California instead of limiting their inquiries to getting the addresses for people they are already investigating. As this bill progresses, the author may want to consider amending the bill to follow the same process as AB 60 licenses, where the is information comingled and the only identifier is “Not Federally Compliant,” the same as any non-Real ID card issued to a citizen of the United States.

Making necessary information technology (IT) programming changes to implement this bill may come at a significant cost to DMV. DMV currently uses a legacy computer programming language known as Assembler that was created around the 1950s and is less commonly used today. As a result, few individuals are trained in this coding language, and many are nearing retirement at DMV. DMV has begun the process of updating its systems, but in the meantime, reprogramming could be costly.

DMV reports it is undertaking a complete modernization of its IT systems, which will require DMV to place its “core legacy” IT system in “freeze mode.” Recent new laws that have required DMV to make IT updates have had delayed enactment dates in order to accommodate the modernization efforts.

In addition to the current IT systems modernization, DMV is also working to meet the REAL ID compliance deadline. Americans will need a REAL ID or passport in order to fly domestically by May of 2023. DMV wait times in recent years increased significantly as a result of the requirement in the REAL ID Act for individuals to get a new picture. Due to recent efforts by the Governor and Legislature, wait times have significantly improved. However, as of February 2022, only 12,704,421 Californians have a REAL ID, with only two million Californians receiving a REAL ID in the second half of 2021. DMV projects that 20 million Californians will want a REAL ID Card in order to fly.

When AB 60 took effect, applications for AB 60 driver’s licenses overwhelmed DMV offices, necessitating the opening of additional DMV field offices and the hiring of additional employees. The potential overlap with the REAL ID rollout and the implementation date for this bill, January 1, 2024 could cause capacity issues for DMV and may result in increased wait times.

REGISTERED SUPPORT / OPPOSITION:

Support

Alianza
Alliance for Better Community
Asian Law Alliance
Bend The Arc: Jewish Action
Buen Vecino
California Coalition for Women Prisoners
California Religious Action Center of Reform Judaism
California Rural Legal Assistance Foundation, Inc.
Catholic Charities of the Diocese of Santa Rosa
Coalition for Humane Immigrant Rights (Chirla)(Unreg)
Communities United for Restorative Youth Justice (CURYJ)
Community Legal Services in East Palo Alto
Friends Committee on Legislation of California
Ice Out of Marin
Immigrant Legal Resource Center
Indivisible CA Statestrong
Indivisible Resisters Walnut Creek

Indivisible San Francisco
Indivisible San Jose
Initiate Justice
Jakara Movement
Kids in Need of Defense (KIND)
Law Foundation of Silicon Valley
Legal Aid Society of San Mateo County
Legal Services for Children
Long Beach Immigrant Rights Coalition
National Association of Social Workers, California Chapter
NorCal Resist
Oasis Legal Services
Orange County Equality Coalition
Pico California
Public Counsel
Public Law Center
Rainbow Beginnings
San Diego immigrant Rights Consortium
Secure Justice
South Bay People Power
Successful Reentry, LLC
Thai Community Development Center

Opposition

None on file

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