

1 S.38

2 Introduced by Senators Baruth, Ashe, Ayer, Cummings, Fox, Lyons,

3 McCormack, Pollina, White, and Zuckerman

4 Referred to Committee on Transportation

5 Date: January 18, 2013

6 Subject: Motor vehicles; driver's licenses; non-driver identification cards;

7 residents unable to prove legal presence

8 Statement of purpose of bill as introduced: This bill proposes to expand

9 eligibility for driver's licenses and non-driver identification cards to Vermont

10 residents unable to establish lawful presence in the United States.

11 An act relating to expanding eligibility for driving and identification
12 privileges in Vermont

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 ~~Sec. 1. FINDINGS~~

15 ~~(a) The General Assembly finds that migrant workers in Vermont face~~
16 ~~significant challenges based on their current ineligibility for Vermont driver's~~
17 ~~licenses and non-driver identification cards. These challenges include barriers~~
18 ~~to identifying themselves and being identified officially, and to traveling in~~
19 ~~order to purchase basic necessities or to access services, including medical~~
20 ~~care.~~

1 ~~(b) 2012 Acts and Resolves No. 95 created a study committee on migrant~~
2 ~~worker access to driver's licenses and non-driver identification cards. The~~
3 ~~study committee recommended that Vermont law be amended to authorize the~~
4 ~~issuance of driver's licenses and non-driver identification cards to Vermont~~
5 ~~residents unable to establish lawful presence in the United States.~~

6 Sec. 2. 23 V.S.A. § 603 is amended to read:

7 § 603. APPLICATION FOR AND ISSUANCE OF LICENSE

8 * * *

9 (d) ~~In addition to any other requirement of law or rule, a~~ Except as
10 ~~provided in subsection (e) of this section:~~

11 (1) A citizen of a foreign country shall produce his or her passport and
12 visa, alien registration receipt card (green card), or other proof of legal
13 presence for inspection and copying as a part of the application process for an
14 operator license, junior operator license, or learner permit. Notwithstanding
15 any other law or rule to the contrary, an

16 (2) An operator license, junior operator license, or learner permit issued
17 to a citizen of a foreign country shall expire coincidentally with his or her
18 authorized duration of stay.

19 (e)(1) Notwithstanding subdivision (d)(1) of this section, a citizen of a
20 foreign country unable to establish legal presence in the United States who
21 furnishes proof of residence and of name, date of birth, and place of birth, and

1 ~~who otherwise satisfies the eligibility requirements of this chapter, shall be~~
2 issued an operator license, junior operator license, or learner permit. The
3 license or permit shall expire at midnight on the eve of the second birthday of
4 the applicant following the date of issuance.

5 (2) The Commissioner shall require applicants under this subsection to
6 furnish a document or a combination of documents that reliably proves the
7 applicant's name, date of birth, and place of birth. The Commissioner may
8 prescribe the documents or combination of documents that meets these criteria.
9 However, the Commissioner shall accept the following documents, and shall
10 only require a combination of them if necessary, to establish name, date of
11 birth, and place of birth of an applicant:

12 (A) a valid foreign passport, with or without a U.S. Customs and
13 Border Protection entry form or stamp;

14 (B) a valid consular identification document issued by the
15 government of Mexico or of Guatemala or by any other government with
16 comparable security standards and protocols, as determined by the
17 Commissioner; and

18 (C) a certified record of the applicant's birth, marriage, adoption, or
19 divorce, including a translation if necessary.

20 (3) The Commissioner shall require applicants under this subsection to
21 furnish a document or a combination of documents that reliably proves the

1 ~~applicant's Vermont residency. The Commissioner may prescribe the~~
2 documents or combination of documents that meets these criteria. However,
3 the Commissioner shall accept the following documents as proof of Vermont
4 residency:

5 (A) two pieces of mail received by the applicant with the applicant's
6 current name and physical or residential Vermont address; or

7 (B) two of the following which show name and physical or
8 residential Vermont address:

9 (i) a vehicle title or registration;

10 (ii) a document issued by a financial institution, such as a bank
11 statement;

12 (iii) a document issued by an insurance company or agent, such as
13 an insurance card, binder, or bill;

14 (iv) a document issued by an educational institution, such as a
15 transcript, report card, or enrollment confirmation;

16 (v) federal tax documents, such as W-2 or 1099 forms;

17 (vi) state tax documents, such as an IN-111; and

18 (vii) medical health records, receipts, or bills.

19 (4) Application and issuance procedures. The Commissioner may
20 promulgate policies or adopt rules related to the issuance of licenses or permits
21 under this subsection that balance accessibility with mechanisms to prevent

1 ~~fraud. The Commissioner shall consider adopting the appointment system~~
2 ~~procedures used in other states to prevent and deter fraud with regard to proof~~
3 ~~of residency.~~

4 ~~(f) Licenses or permits that do not conform to the requirements of the~~
5 ~~REAL ID Act of 2005, Pub. L. No. 109-13, §§ 201–202 (REAL ID), shall be~~
6 ~~physically indistinguishable from each other, except as may be authorized with~~
7 ~~regard to their expiration dates. On the date that the Secretary of the~~
8 ~~U.S. Department of Homeland Security requires Vermont to comply fully with~~
9 ~~REAL ID, all noncompliant licenses and permits shall be distinguished from~~
10 ~~REAL ID-compliant licenses and permits in accordance with law.~~

11 Sec. 3. 23 V.S.A. § 115 is amended to read:

12 § 115. NONDRIVER IDENTIFICATION CARDS

13 (a) Any Vermont resident may make application to the ~~commissioner~~
14 ~~Commissioner~~ and be issued an identification card which is attested by the
15 ~~commissioner~~ ~~Commissioner~~ as to true name, correct age, and any other
16 identifying data as the ~~commissioner~~ ~~Commissioner~~ may require which shall
17 include, in the case of minor applicants, the written consent of the applicant's
18 parent, guardian, or other person standing in loco parentis. Every application
19 for an identification card shall be signed by the applicant and shall contain
20 such evidence of age and identity as the ~~commissioner~~ ~~Commissioner~~ may
21 require, consistent with subsection (l) of this section. The ~~commissioner~~

1 ~~Commissioner shall require payment of a fee of \$20.00 at the time application~~
2 for an identification card is made.

3 (b) ~~Every~~ Except as provided in subsection (l) of this section, every
4 identification card shall expire, unless earlier canceled, on the fourth birthday
5 of the applicant following the date of original issue, and may be renewed every
6 four years upon payment of a \$20.00 fee. At least 30 days before an
7 identification card will expire, the ~~commissioner~~ Commissioner shall mail first
8 class to the cardholder an application to renew the identification card.

9 * * *

10 (l) The Commissioner shall issue identification cards to Vermont residents
11 who are not U.S. citizens, regardless of legal presence in the United States, if
12 the applicant follows the procedures and furnishes documents as specified in
13 subsection 603(d) or (e) of this title and any policies or rules adopted
14 thereunder, and otherwise satisfies the requirements of this section. The
15 identification cards shall expire consistent with subsection 603(d) or (e) of this
16 title.

17 (m) All identification cards that do not conform to the requirements of the
18 REAL ID Act of 2005, Pub. L. No. 109-13, §§ 201–202 (REAL ID), shall be
19 physically indistinguishable from each other, except as may be authorized with
20 regard to their expiration dates. On the date that the Secretary of the
21 U.S. Department of Homeland Security requires Vermont to comply fully with

1 ~~REAL ID, all noncompliant identification cards shall be distinguished from~~

2 REAL ID-compliant identification cards in accordance with law.

3 Sec. 4. EFFECTIVE DATE

4 ~~This act shall take effect on September 1, 2013.~~

Sec. 1. 23 V.S.A. § 603 is amended to read:

§ 603. APPLICATION FOR AND ISSUANCE OF LICENSE

** * **

(d) ~~In addition to any other requirement of law or rule, a~~ Except as provided in subsection (e) of this section:

(1) ~~A citizen of a foreign country shall produce his or her passport and visa, alien registration receipt card (green card), or other proof of legal presence for inspection and copying as a part of the application process for an operator license, junior operator license, or learner permit. Notwithstanding any other law or rule to the contrary, an~~

(2) ~~An operator license, junior operator license, or learner permit issued to a citizen of a foreign country shall expire coincidentally with his or her authorized duration of stay.~~

(e)(1) A citizen of a foreign country unable to establish legal presence in the United States who furnishes reliable proof of Vermont residence and of name, date of birth, and place of birth, and who satisfies all other requirements of this chapter for obtaining a license or permit, shall be eligible to obtain an operator's privilege card, a junior operator's privilege card, or a learner's privilege card.

(2) The Commissioner shall require applicants under this subsection to furnish a document or a combination of documents that reliably proves the applicant's name, date of birth, and place of birth. The Commissioner may prescribe the documents or combination of documents that meets these criteria. However, the Commissioner shall accept a combination of two or more of the following documents to establish the name, date of birth, and place of birth of an applicant:

(A) a valid foreign passport, with or without a U.S. Customs and Border Protection entry form or stamp;

(B) a valid consular identification document issued by the government of Mexico or of Guatemala or by any other government with

comparable security standards and protocols, as determined by the Commissioner;

(C) a certified record of the applicant's birth, marriage, adoption, or divorce, including a translation if necessary.

(3) The Commissioner shall require applicants under this subsection to furnish a document or a combination of documents that reliably proves the applicant's Vermont residence. The Commissioner may prescribe the documents or combination of documents that meets these criteria. However, the Commissioner shall accept the following combinations of documents as proof of Vermont residence:

(A)(i) two pieces of mail received by the applicant within the prior 30 days with the applicant's current name and residential Vermont address; and

(ii) at least one of the documents specified in subdivision (B) of this subdivision (3); or

(B) two of the following which show name and residential Vermont address:

(i) a vehicle title or registration;

(ii) a document issued by a financial institution, such as a bank statement;

(iii) a document issued by an insurance company or agent, such as an insurance card, binder, or bill;

(iv) a document issued by an educational institution, such as a transcript, report card, or enrollment confirmation;

(v) federal tax documents, such as W-2 or 1099 forms;

(vi) state tax documents, such as an IN-111; and

(vii) medical health records, receipts, or bills.

(f) Persons able to establish lawful presence in the United States but who otherwise fail to comply with the requirements of the REAL ID Act of 2005, Pub. L. No. 109-13, §§ 201–202, shall be eligible for an operator's privilege card, a junior operator's privilege card, or a learner's privilege card, provided the applicant furnishes reliable proof of Vermont residence and of name, date of birth, and place of birth, and satisfies all other requirements of this chapter for obtaining a license or permit. The Commissioner shall require applicants under this subsection to furnish a document or a combination of documents that reliably proves the applicant's Vermont residence and his or her name, date of birth, and place of birth.

(g) The Commissioner may adopt policies or rules related to the issuance of privilege cards under this section that balance accessibility with mechanisms to prevent fraud. The Commissioner shall consider adopting the appointment system procedures used in other states to prevent and deter fraud with regard to proof of residency.

(h) A privilege card issued under this section shall:

(1) on its face bear the phrase "privilege card" and text indicating that it is not valid for federal identification or official purposes; and

(2) expire at midnight on the eve of the second birthday of the applicant following the date of issuance.

(i) Every applicant for or holder of a privilege card under this section shall be subject to all of the provisions of this title that apply to applicants and holders of operator's licenses, junior operator's licenses, and learner permits, except where the context clearly requires otherwise.

Sec. 2. 23 V.S.A. § 115 is amended to read:

§ 115. NONDRIVER IDENTIFICATION CARDS

(a) Any Vermont resident may make application to the ~~commissioner~~ Commissioner and be issued an identification card which is attested by the ~~commissioner~~ Commissioner as to true name, correct age, and any other identifying data as the ~~commissioner~~ Commissioner may require which shall include, in the case of minor applicants, the written consent of the applicant's parent, guardian, or other person standing in loco parentis. Every application for an identification card shall be signed by the applicant and shall contain such evidence of age and identity as the ~~commissioner~~ Commissioner may require, consistent with subsection (l) of this section. The ~~commissioner~~ Commissioner shall require payment of a fee of \$20.00 at the time application for an identification card is made.

(b) ~~Every~~ Except as provided in subsection (l) of this section, every identification card shall expire, unless earlier canceled, on the fourth birthday of the applicant following the date of original issue, and may be renewed every four years upon payment of a \$20.00 fee. At least 30 days before an identification card will expire, the ~~commissioner~~ Commissioner shall mail first class to the cardholder an application to renew the identification card.

* * *

(l)(1) The Commissioner shall issue identification cards to Vermont residents who are not U.S. citizens but are able to establish lawful presence in the United States if an applicant follows the procedures and furnishes documents as required under subsection 603(d) of this title and any policies or

rules adopted thereunder, and otherwise satisfies the requirements of this section. The identification cards shall expire consistent with subsection 603(d) of this title.

(2) The Commissioner shall issue non-REAL ID compliant identification cards to Vermont residents unable to establish lawful presence in the United States if an applicant follows the procedures and furnishes documents as required under subsection 603(e) of this title and any policies or rules adopted thereunder, and otherwise satisfies the requirements of this section.

(3) The Commissioner shall issue non-REAL ID compliant identification cards to Vermont residents able to establish lawful presence in the United States but who otherwise fail to comply with the requirements of the REAL ID Act of 2005, Pub. L. No. 109-13, §§ 201–202, if the applicant follows the procedures and furnishes documents as required under subsection 603(f) of this title and any policies or rules adopted thereunder, and otherwise satisfies the requirements of this section.

(4) A non-REAL ID compliant identification card issued under subdivision (2) or (3) of this subsection shall:

(A) bear on its face text indicating that it is not valid for federal identification or official purposes; and

(B) expire at midnight on the eve of the second birthday of the applicant following the date of issuance.

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2014.