

CHAPTER 402

MOTOR VEHICLES AND TRAFFIC REGULATION

SENATE BILL 13-251

BY SENATOR(S) Ulibarri and Morse, Aguilar, Carroll, Giron, Guzman, Heath, Hodge, Hudak, Johnston, Jones, Kefalas, Newell, Schwartz, Steadman, Tochtrop, Todd, Nicholson;
also REPRESENTATIVE(S) Melton, Moreno, Salazar, Buckner, Duran, Foote, Garcia, Hullinghorst, Labuda, Pabon, Rosenthal, Ryden, Williams.

AN ACT

CONCERNING DOCUMENTARY EVIDENCE NEEDED FOR AN INDIVIDUAL TO BE ISSUED AN IDENTITY DOCUMENT BY THE DEPARTMENT OF REVENUE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 42-2-104, **amend** (3) introductory portion and (3) (e); and **add** (6) as follows:

42-2-104. Licenses issued - denied. (3) The department shall not issue ~~any~~ A license to:

(e) ~~Any~~ A person whose presence in the United States is in violation of federal immigration laws;

(6) THE DEPARTMENT SHALL NOT ISSUE A DRIVER'S LICENSE, MINOR DRIVER'S LICENSE, OR INSTRUCTION PERMIT TO AN INDIVIDUAL WHOSE AUTHORIZATION TO BE PRESENT IN THE UNITED STATES IS TEMPORARY UNLESS THE INDIVIDUAL APPLIES UNDER AND COMPLIES WITH PART 5 OF THIS ARTICLE.

SECTION 2. In Colorado Revised Statutes, 42-2-107, **amend** (1) (c) as follows:

42-2-107. Application for license or instruction permit - anatomical gifts - donations to Emily Maureen Ellen Keyes organ and tissue donation awareness fund - legislative declaration - repeal. (1) (c) The department ~~may~~ SHALL not issue a driver's or minor driver's license to ~~any~~ A person who is not lawfully present in the United States.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 3. In Colorado Revised Statutes, 42-2-302, **add** (7) as follows:

42-2-302. Department may issue - limitations. (7) THE DEPARTMENT SHALL NOT ISSUE AN IDENTIFICATION CARD TO AN INDIVIDUAL WHOSE AUTHORIZATION TO BE PRESENT IN THE UNITED STATES IS TEMPORARY UNLESS THE INDIVIDUAL APPLIES UNDER AND COMPLIES WITH PART 5 OF THIS ARTICLE.

SECTION 4. In Colorado Revised Statutes, **add** part 5 to article 2 of title 42 as follows:

PART 5
COLORADO ROAD AND COMMUNITY SAFETY ACT

42-2-501. Short title. THIS PART 5 MAY BE KNOWN AND CITED AS THE "COLORADO ROAD AND COMMUNITY SAFETY ACT".

42-2-502. Legislative declaration. THE PURPOSE OF THIS PART 5 IS TO AUTHORIZE AN INDIVIDUAL TO QUALIFY FOR A DRIVER'S LICENSE, MINOR DRIVER'S LICENSE, INSTRUCTION PERMIT, OR IDENTIFICATION CARD DESPITE THE INDIVIDUAL NOT BEING LAWFULLY PRESENT OR BEING TEMPORARILY LAWFULLY PRESENT IN THE UNITED STATES. THIS PART 5 IS NOT INTENDED TO CHANGE OTHER QUALIFICATIONS, REQUIREMENTS, OR CONSEQUENCES OF HOLDING THE DOCUMENT UNDER PARTS 1 TO 3 OF THIS ARTICLE, ARTICLE 7 OF THIS TITLE, OR ANY OTHER PROVISION OF LAW. THE SUSPENSION OR REVOCATION OF DRIVING PRIVILEGES, THE REQUIRED FEES, FINANCIAL RESPONSIBILITY REQUIREMENTS, RULES OF THE ROAD, ADMINISTRATIVE PROCEDURES AND HEARINGS, QUALIFICATIONS FOR A DRIVER'S LICENSE, VIOLATIONS AND PENALTIES, AND OTHER PROVISIONS THAT APPLY TO DRIVER'S LICENSES, MINOR DRIVER'S LICENSES, INSTRUCTION PERMITS, AND IDENTIFICATION CARDS ARE NOT INTENDED TO BE AFFECTED BY THIS PART 5.

42-2-503. Definitions. AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "IDENTIFICATION DOCUMENT" MEANS A DRIVER'S LICENSE, MINOR DRIVER'S LICENSE, INSTRUCTION PERMIT, OR IDENTIFICATION CARD ISSUED BY THE DEPARTMENT OF REVENUE UNDER PARTS 1 AND 3 OF THIS ARTICLE.

(2) "PROOF OF RETURN FILING" MEANS THE DOCUMENT ISSUED UNDER SECTION 39-21-113 (4) (b), C.R.S., THAT CERTIFIES THAT THE APPLICANT FILED A COLORADO RESIDENT INCOME TAX RETURN.

(3) "TEMPORARILY PRESENT" MEANS A PERSON WHOSE AUTHORITY TO LAWFULLY REMAIN IN THE UNITED STATES IS TEMPORARY AND WHO QUALIFIES FOR A TEMPORARY IDENTIFICATION DOCUMENT CARD UNDER PUB.L. 109-13, DIVISION B, TITLE II, SEC. 202 (c) (2) (C).

42-2-504. Applicability. (1) **This part 5.** THIS PART 5 APPLIES TO IDENTIFICATION DOCUMENTS FOR INDIVIDUALS WHO ARE NOT CITIZENS OF THE UNITED STATES AND WHO DO NOT HAVE PERMANENT RESIDENCY STATUS.

(2) **Other provisions.** PARTS 1 TO 4 OF THIS ARTICLE AND ARTICLE 7 OF THIS TITLE APPLY TO IDENTIFICATION DOCUMENTS ISSUED UNDER THIS PART 5, BUT THIS PART 5 SUPERCEDES PARTS 1 TO 3 OF THIS ARTICLE AND ARTICLE 7 OF THIS TITLE FOR IDENTIFICATION DOCUMENTS ISSUED IN COMPLIANCE WITH THIS PART 5.

(3) **Commercial driver's licenses.** THIS PART 5 DOES NOT AUTHORIZE THE ISSUANCE OF A COMMERCIAL DRIVER'S LICENSE OR COMMERCIAL DRIVING LEARNER'S PERMIT UNDER PART 4 OF THIS ARTICLE TO A PERSON WHO IS NOT LAWFULLY PRESENT IN THE UNITED STATES.

42-2-505. Identification documents - individuals not lawfully present.

(1) **Documents issued.** AN INDIVIDUAL WHO IS NOT LAWFULLY PRESENT MAY APPLY FOR AN IDENTIFICATION DOCUMENT IN ACCORDANCE WITH THIS PART 5. THE DEPARTMENT SHALL ISSUE AN IDENTIFICATION DOCUMENT TO AN APPLICANT WHO:

(a) QUALIFIES FOR THE DOCUMENT APPLIED FOR EXCEPT FOR QUALIFICATIONS THAT CONFLICT WITH THIS SECTION; AND

(b) (I) SIGNS AN AFFIDAVIT THAT THE APPLICANT IS CURRENTLY A RESIDENT AND PRESENTS PROOF OF RETURN FILING FOR THE IMMEDIATELY PRECEDING YEAR AND EVIDENCE OF RESIDENCE IN COLORADO THAT CONFORMS TO THE STANDARDS OF PUB.L. 109-13, DIVISION B, TITLE II, SEC. 201 ET SEQ. OR ANY RULES PROMULGATED UNDER PUB.L. 109-13, DIVISION B, TITLE II, SEC. 201 ET SEQ.; OR

(II) SIGNS AN AFFIDAVIT THAT THE APPLICANT HAS CONTINUOUSLY BEEN A RESIDENT IN COLORADO FOR THE IMMEDIATELY PRECEDING TWENTY-FOUR MONTHS AND PRESENTS EVIDENCE OF RESIDENCE IN COLORADO FOR THE IMMEDIATELY PRECEDING TWENTY-FOUR MONTHS THAT CONFORMS TO THE STANDARDS OF PUB.L. 109-13, DIVISION B, TITLE II, SEC. 201 ET SEQ. OR ANY RULES PROMULGATED UNDER PUB.L. 109-13, DIVISION B, TITLE II, SEC. 201 ET SEQ.; AND

(c) DOCUMENTS AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER ISSUED BY THE UNITED STATES INTERNAL REVENUE SERVICE;

(d) AFFIRMS IN AN AFFIDAVIT SIGNED BY THE APPLICANT THAT THE APPLICANT HAS APPLIED TO BE LAWFULLY PRESENT WITHIN THE UNITED STATES OR WILL APPLY TO BE LAWFULLY PRESENT AS SOON AS THE APPLICANT IS ELIGIBLE; AND

(e) PRESENTS ONE OF THE FOLLOWING FROM THE APPLICANT'S COUNTRY OF ORIGIN:

(I) A PASSPORT;

(II) A CONSULAR IDENTIFICATION CARD; OR

(III) A MILITARY IDENTIFICATION DOCUMENT.

(2) **Document contents.** (a) ON AN IDENTIFICATION DOCUMENT ISSUED UNDER THIS SECTION, THE DEPARTMENT SHALL PLACE THE PHRASE "NOT VALID FOR FEDERAL IDENTIFICATION, VOTING, OR PUBLIC BENEFIT PURPOSES" CLEARLY DISPLAYED ON THE FACE AND INCORPORATED INTO THE MACHINE READABLE ZONE.

THE DEPARTMENT MAY USE A SUBSTANTIALLY SIMILAR PHRASE IF REQUIRED BY FEDERAL LAW.

(b) THE DEPARTMENT SHALL DESIGN THE IDENTIFICATION DOCUMENT ISSUED UNDER THIS SECTION TO BE DISTINGUISHABLE FROM ANOTHER IDENTIFICATION DOCUMENT ISSUED UNDER THIS ARTICLE IN COMPLIANCE WITH FEDERAL LAW.

(3) **Graduated driver's license requirements.** TO BE ISSUED A MINOR DRIVER'S LICENSE UNDER THIS SECTION, AN APPLICANT WHO IS UNDER EIGHTEEN YEARS OF AGE MUST COMPLY WITH SECTION 42-2-104 (4).

42-2-506. Identification documents - individuals temporarily lawfully present. (1) AN INDIVIDUAL WHO IS TEMPORARILY PRESENT IN THE UNITED STATES MAY APPLY FOR AN IDENTIFICATION DOCUMENT UNDER THIS SECTION. THE DEPARTMENT SHALL ISSUE AN IDENTIFICATION DOCUMENT IF:

(a) THE INDIVIDUAL:

(I) QUALIFIES FOR THE DOCUMENT APPLIED FOR EXCEPT FOR QUALIFICATIONS THAT CONFLICT WITH THIS SECTION; AND

(II) PRODUCES DOCUMENTS THAT SATISFY THE DEPARTMENT THAT THE INDIVIDUAL IS LAWFULLY PRESENT IN THE UNITED STATES; AND

(b) THE FEDERAL GOVERNMENT CONFIRMS THE INDIVIDUAL'S STATUS, INCLUDING ELECTRONICALLY THROUGH THE SAVE OR SOLVE SYSTEMS.

42-2-507. Taxpayer identification number - confidentiality. THE DEPARTMENT SHALL KEEP THE APPLICANT'S INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER CONFIDENTIAL AND SHALL NOT PLACE IT ON THE APPLICANT'S DOCUMENT; EXCEPT THAT THIS CONFIDENTIALITY REQUIREMENT DOES NOT EXTEND TO THE STATE CHILD SUPPORT ENFORCEMENT AGENCY, THE DEPARTMENT, OR A COURT OF COMPETENT JURISDICTION WHEN REQUESTING INFORMATION IN THE COURSE OF ACTIVITIES AUTHORIZED UNDER ARTICLE 13 OF TITLE 26, C.R.S., OR ARTICLE 14 OF TITLE 14, C.R.S.

42-2-508. Fees - rule. THE DEPARTMENT MAY PROMULGATE A RULE IMPOSING AN ADDITIONAL FEE FOR ISSUANCE OF A DOCUMENT ISSUED UNDER THIS PART 5 TO COVER THE DIRECT AND INDIRECT COST OF IMPLEMENTING THIS PART 5.

42-2-509. Renewal. AN IDENTIFICATION DOCUMENT ISSUED UNDER THIS PART 5 EXPIRES THREE YEARS AFTER ISSUANCE. THE HOLDER OF THE DOCUMENT MUST APPLY FOR RENEWAL TO CONTINUE TO HOLD A VALID IDENTIFICATION DOCUMENT.

42-2-510. Peace officers - arrest authority. AN IMMIGRATION STATUS VIOLATION IS A FEDERAL OFFENSE. A PEACE OFFICER IS NOT AUTHORIZED TO ARREST AN INDIVIDUAL MERELY FOR POSSESSING AN IDENTIFICATION DOCUMENT ISSUED UNDER THIS PART 5.

SECTION 5. In Colorado Revised Statutes, amend 24-72.1-103 as follows:

24-72.1-103. Identity documents - verifiable. (1) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, a public entity that provides services shall not accept, rely upon, or utilize an identification document to provide services unless it is a secure and verifiable document.

(2) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, a public entity that is issuing an identification card, license, permit, or official document shall not authorize acceptance of an identification document, nor shall a public official acting in an official capacity accept ~~an~~ THE HOLDER'S identification document before issuing ~~such~~ OFFICIAL documents, unless ~~such~~ THE identification document is a secure and verifiable document.

(3) THE DEPARTMENT OF REVENUE MAY ISSUE A DRIVER'S LICENSE, MINOR DRIVER'S LICENSE, INSTRUCTION PERMIT, OR IDENTIFICATION CARD IN ACCORDANCE WITH PART 5 OF ARTICLE 2 OF TITLE 42, C.R.S., BUT THE LICENSE, PERMIT, OR CARD IS NOT A SECURE AND VERIFIABLE DOCUMENT.

SECTION 6. In Colorado Revised Statutes, 24-76.5-103, **amend** (4) (a) (I) as follows:

24-76.5-103. Verification of lawful presence - exceptions - reporting - rules.

(4) An agency or a political subdivision shall verify the lawful presence in the United States of each applicant eighteen years of age or older for federal public benefits or state or local public benefits by requiring the applicant to:

(a) Produce:

(I) A valid Colorado driver's license or a Colorado identification card issued ~~pursuant to~~ UNDER article 2 of title 42, C.R.S., UNLESS THE APPLICANT HOLDS A LICENSE OR CARD ISSUED UNDER PART 5 OF ARTICLE 2 OF TITLE 42, C.R.S.; or

SECTION 7. In Colorado Revised Statutes, 39-21-113, **amend** (4) (b) as follows:

39-21-113. Reports and returns - repeal - rule. (4) (b) (I) ~~Nothing in~~ This section ~~shall be construed to~~ DOES NOT prohibit the delivery to a person or his or her duly authorized representative of a copy of any return or report filed in connection with his or her tax. ~~Such copies~~ THE COPY may be certified by the executive director of the department of revenue or the head of ~~any~~ A group, division, or subordinate department, as appointed by the executive director in accordance with article 35 of title 24, C.R.S., and when so certified ~~shall be~~ IS evidence equally with and in like manner as the originals and may be ~~received~~ USED by ~~the courts of this state~~ A COURT as evidence of the contents of the originals.

(II) AN INDIVIDUAL OR HIS OR HER DULY AUTHORIZED REPRESENTATIVE MAY ALSO REQUEST PROOF OF RETURN FILING FOR PARTICULAR TAX YEARS. FOLLOWING REQUEST AND PAYMENT OF THE APPLICABLE FEE, THE DEPARTMENT SHALL PROVIDE PROOF OF RETURN FILING FOR A PERIOD FOR WHICH THE TAXPAYER HAS FILED A RETURN AND REQUESTED PROOF OF RETURN FILING. THE DEPARTMENT SHALL INCLUDE IN THE PROOF OF FILING:

(A) THE INDIVIDUAL'S NAME;

(B) THE INDIVIDUAL'S ADDRESS AS SHOWN ON THE MOST RECENTLY FILED RETURN;

(C) THE DATES OF THE TAX PERIODS OF THE REQUESTED RETURNS; AND

(D) A STATEMENT AS TO WHETHER THE MOST RECENTLY FILED RETURN WAS FILED AS A RESIDENT OF COLORADO, OR, IF A PART-YEAR RESIDENT, THE DATE THE INDIVIDUAL ACQUIRED OR ABANDONED RESIDENCY.

(III) THE DEPARTMENT SHALL PROMULGATE A RULE ESTABLISHING AND CHARGING A FEE FOR THE ISSUANCE OF PROOF OF RETURN FILING. TO BE VALID, THE CHARGE MUST BE BASED ON THE ACTUAL COST OF ISSUING THE PROOF OF RETURN FILING.

SECTION 8. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund, not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 2013, the sum of \$436,292, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

(a) \$7,725 to the executive director's office for the purchase of legal services from the department of law;

(b) \$35,774 to the information technology division for the purchase of computer center services; and

(c) \$392,793 to the division of motor vehicles for contract services and document design.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2013, the sum of \$7,725 and 0.1 FTE, or so much thereof as may be necessary, for the provision of legal services for the department of revenue related to the implementation of this act. Said sum is from reappropriated funds received from the department of revenue out of the appropriation made in paragraph (a) of subsection (1) of this section.

(3) In addition to any other appropriation, there is hereby appropriated to the governor - lieutenant governor - state planning and budgeting, for the fiscal year beginning July 1, 2013, the sum of \$35,774, or so much thereof as may be necessary, for allocation to the office of information technology, for the provision of computer center services for the department of revenue related to the implementation of this act. Said sum is from reappropriated funds received from the department of revenue out of the appropriation made in paragraph (b) of subsection (1) of this section.

SECTION 9. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a referendum petition is

filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to applications submitted on or after August 1, 2014.

Approved: June 5, 2013