



AN ACT REQUIRING THE DEPARTMENT OF JUSTICE TO USE THE FEDERAL SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS (SAVE) PROGRAM TO VERIFY THE LAWFUL PRESENCE IN THE UNITED STATES OF AN APPLICANT FOR A DRIVER'S LICENSE OR IDENTIFICATION CARD; AMENDING THE DEPARTMENT'S RULEMAKING AUTHORITY REGARDING ISSUANCE OF IDENTIFICATION CARDS; WITHDRAWING THE DEPARTMENT'S AUTHORITY TO APPOINT AGENTS FOR ISSUANCE OF IDENTIFICATION CARDS; AMENDING SECTIONS 61-5-105, 61-12-501, 61-12-502, AND 61-12-504, MCA; AND REPEALING SECTION 61-12-503, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 61-5-105, MCA, is amended to read:

**"61-5-105. Who may not be licensed.** The department may not issue a license under this chapter to a person:

- (1) who is under 16 years of age unless:
  - (a) the person is at least 15 years of age and has passed a driver's education course approved by the department and the superintendent of public instruction; or
  - (b) the person is at least 13 years of age and, because of individual hardship, to be determined by the department, needs a restricted license;
- (2) whose license or driving privilege is currently suspended, revoked, or canceled or who is disqualified from operating a commercial motor vehicle in this or any state, as evidenced by an ineligible status report from the national driver register, established under 49 U.S.C. 30302, or from the commercial driver's license information system, established under 49 U.S.C. 31309;
- (3) who is addicted to the use of alcohol or narcotic drugs;
- (4) who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who, at the time of application, has not been restored to competency by the methods provided by law;

- (5) who is required by this chapter to take an examination;
- (6) who has not deposited proof of financial responsibility when required under the provisions of chapter 6 of this title;
- (7) who has any condition characterized by lapse of consciousness or control, either temporary or prolonged, that is or may become chronic. However, the department may, in its discretion, issue a license to an otherwise qualified person suffering from a condition if the afflicted person's attending physician, licensed physician assistant, or advanced practice registered nurse, as defined in 37-8-102, attests in writing that the person's condition has stabilized and would not be likely to interfere with that person's ability to operate a motor vehicle safely and, if a commercial driver's license is involved, the person is physically qualified to operate a commercial motor vehicle under applicable state or federal regulations;
- (8) who lacks the functional ability, due to a physical or mental disability or limitation, to safely operate a motor vehicle on the highway;
- (9) who is not a resident of or domiciled in Montana except as provided in 61-5-103(3); or
- (10) ~~who does not submit proof satisfactory to the department that the applicant's~~ whose presence in the United States is not authorized under federal law. When an applicant who is not a citizen of the United States applies for a driver's license, the department shall verify that the applicant is lawfully present in the United States by using the federal systematic alien verification for entitlements program. The department may not accept ~~as a primary source of identification~~ a driver's license issued by ~~a~~ another state ~~if the state does not require that a driver licensed in that state be~~ as proof that an applicant is lawfully present in the United States under federal law."

**Section 2.** Section 61-12-501, MCA, is amended to read:

**"61-12-501. Authority of department to issue identification cards -- lawful presence verification.**

- (1) The department may issue an identification ~~cards~~ card to any person who maintains a residence in this state and whose presence in the United States is authorized under federal law.
- (2) When an applicant who is not a citizen of the United States applies for an identification card, the department shall verify that the applicant is lawfully present in the United States by using the federal systematic alien verification for entitlements program.

**Section 3.** Section 61-12-502, MCA, is amended to read:

**"61-12-502. Rules for identification cards.** The department shall formulate and adopt ~~reasonable~~ rules ~~for the application for and issuing governing the issuance and cancellation~~ of identification cards ~~and cancellation thereof and shall require the furnishing of such information necessary for the purpose of this part that comport with the proof of identify, residence, and authorized presence standards for a driver's license issued under Title 61, chapter 5.~~"

**Section 4.** Section 61-12-504, MCA, is amended to read:

**"61-12-504. Fees for identification cards -- expiration of cards.** (1) ~~Fees not in excess of \$8 for identification cards issued pursuant to this part must be collected and deposited in the general fund. Fees not in excess of \$8 for identification cards issued pursuant to this part must be collected and deposited in the general fund.~~

(2) A person with a disability, as defined in 39-30-103, may obtain a free identification card. An individual discharged from any correctional facility must be furnished a free identification card upon release, discharge, or parole.

~~(2)~~(3) (a) ~~Each~~ An identification card expires on the anniversary of the date of birth of the holder 4 years after the date of issue.

(b) An identification card issued to a person whose presence in the United States is temporarily authorized under federal laws expires, as determined by the department, no later than the expiration date of the official document issued to the person by the United States citizenship and immigration services of the department of homeland security that authorizes the person's presence in the United States."

**Section 5. Repealer.** The following section of the Montana Code Annotated is repealed:

61-12-503. Agents for issuance of identification cards.

- END -

I hereby certify that the within bill,  
HB 0178, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

HOUSE BILL NO. 178

INTRODUCED BY D. HOWARD, O'HARA, SALOMON, O'NEIL, MILLER, INGRAHAM, LONEY, VANCE,  
WAGNER, KNOX, LAVIN, SKEES, YATES, MACLAREN, RANDALL, ROBERTS, BLASDEL

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