

SENATE BILL NO. 366

INTRODUCED BY J. COHENOUR, J. ESSMANN, J. SESSO, F. THOMAS, B. USHER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A NEW DRIVER'S LICENSE OR IDENTIFICATION CARD TO COMPLY WITH THE FEDERAL REAL ID ACT OF 2005; PROVIDING THAT APPLICATION FOR A REAL ID-COMPLIANT DRIVER'S LICENSE OR IDENTIFICATION CARD IS VOLUNTARY; PROVIDING FEES; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTION 61-5-128, MCA; AND PROVIDING A ~~DELAYED-EFFECTIVE-DATE~~ EFFECTIVE DATES."

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

NEW SECTION. Section 1. REAL ID-compliant driver's license or identification card -- voluntary application. (1) The department shall issue a Montana driver's license or identification card that complies with the requirements of the federal REAL ID Act of 2005, Public Law 109-13, to each qualifying applicant.

(2) (a) When required to obtain a Montana driver's license or identification card, a person may choose to apply for either a standard driver's license or identification card, or for a REAL ID-compliant driver's license or REAL ID-compliant identification card.

(b) A person may not hold a valid standard driver's license or identification card and a valid REAL ID-compliant driver's license or identification card at the same time.

(3) (a) A REAL ID-compliant driver's license issued pursuant to this section is subject to the other requirements of obtaining, renewing, and using a standard driver's license issued pursuant to this chapter.

(b) A REAL ID-compliant identification card issued pursuant to this section is subject to the other requirements of obtaining, renewing, and using a standard identification card issued pursuant to Title 61, chapter 12, part 5, and this chapter.

(4) (a) In addition to the fees charged to apply for or renew a standard driver's license under 61-5-111(6), and the fees charged to apply for a standard identification card under 61-12-504, the department may charge the following additional fees:

(i) for a person who is applying for a REAL ID-compliant driver's license or identification card during a renewal period specified in 61-5-111(3)(c), the additional fee is \$25; ~~and~~

(ii) for a person who is applying for a REAL ID-compliant driver's license or identification card prior to the

renewal period specified in 61-5-111(3)(c), the additional fee is \$50; AND

(III) FOR A PERSON WHO RENEWS A STANDARD DRIVER'S LICENSE OR A STANDARD IDENTIFICATION CARD UNDER 61-5-111(3)(C) BETWEEN JUNE 1, 2017, THROUGH DECEMBER 31, 2017, AND IS APPLYING FOR A REAL ID-COMPLIANT DRIVER'S LICENSE OR IDENTIFICATION CARD BETWEEN JANUARY 1, 2018, AND JUNE 30, 2018, THE ADDITIONAL FEE IS \$25.

(b) The fees collected under this subsection (4) must be deposited in the state special revenue fund to be used to fund the equipment and staffing necessary to provide REAL ID-compliant driver's licenses and identification cards.

Section 2. Section 61-5-128, MCA, is amended to read:

"61-5-128. Legislative finding and direction to state agency not to implement REAL ID Act. ~~(1) The legislature finds that the enactment into law by the U.S. congress of the REAL ID Act of 2005, as part of Public Law 109-13, is inimical to the security and well-being of the people of Montana, will cause unneeded expense and inconvenience to those people, and was adopted by the U.S. congress in violation of the principles of federalism contained in the 10th amendment to the U.S. constitution.~~

~~(2) The state of Montana will not shall participate in the implementation of the REAL ID Act of 2005, Public Law 109-13. The department, including the motor vehicle division of the department, is directed not to implement the provisions of the REAL ID Act of 2005 and to report to the governor any attempt by agencies or agents of the U.S. department of homeland security to secure the implementation of the REAL ID Act of 2005 through the operations of that division and department."~~

NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 61, chapter 5, part 1, and the provisions of Title 61, chapter 5, part 1, apply to [section 1].

NEW SECTION. SECTION 4. CONTINGENT VOIDNESS. IF THE REAL ID ACT OF 2005, PUBLIC LAW 109-13, IS REPEALED OR IF THE FEDERAL GOVERNMENT NOTIFIES THE STATE OF MONTANA THAT COMPLIANCE WITH THE REAL ID ACT IS NOT REQUIRED, THEN [THIS ACT] IS VOID.

NEW SECTION. Section 5. Effective date -- CONTINGENCY. ~~[This act]~~ (1) EXCEPT AS PROVIDED IN SUBSECTION (2), [THIS ACT] is effective January 1, 2018.

1 (2) IF BEFORE JANUARY 1, 2018, THE STATE OF MONTANA RECEIVES AN EXTENSION FROM COMPLIANCE WITH
2 THE REAL ID ACT OF 2005, PUBLIC LAW 109-13, FROM THE DEPARTMENT OF HOMELAND SECURITY, [THIS ACT] IS
3 EFFECTIVE JULY 1, 2019. NOTIFICATION OF THE EXTENSION MUST BE SENT TO THE MONTANA DEPARTMENT OF JUSTICE
4 AND THE CODE COMMISSIONER.

5 - END -