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**SENATE BILL 6028**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senator Benton

AN ACT Relating to issuing a secure driver's license; adding new sections to chapter 46.20 RCW; creating a new section; and repealing RCW 43.41.390 and 46.20.191.

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

NEW SECTION. **Sec.**  The legislature finds that in 2005 congress passed the REAL ID act, which was intended to require that all identification issued by states verify the lawful presence of licensees prior to issuance. Although the federal government has postponed the deadline, the vast majority of states now have REAL ID compliant identification. The legislature finds that while the federal government has recognized enhanced drivers' licenses as a compliant form of identification, Washington state has otherwise not been in compliance with REAL ID. Recently the federal government moved up the deadline for compliance from 2023 to 2020.

The legislature finds that currently there are an estimated eleven million three hundred thousand undocumented aliens in the United States. The legislature also finds that there have been five deferred action programs created by the executive branch since 1997. While previously deferred action programs conferred lawful presence status for purposes of REAL ID on essentially an emergency basis for relatively low numbers of undocumented aliens, on November 20, 2014, President Barrack Obama created a new program that could apply to four million nine hundred thousand people. Since his announcement, many members of congress have disagreed with the President on whether he has the lawful authority to make such a sweeping change to the nation's immigration law without congressional approval. The legislature finds that the state remains under a deadline for compliance with the REAL ID act, but disagreement exists over the constitutionality of the recent actions of the President purporting to confer lawful presence by way of allowing REAL ID-compliant states to issue licenses to these aliens. The conferral of such status will cost millions of dollars to implement. The legislature further finds that it has a compelling state interest and is within its tenth amendment rights to comply with federal law requiring the issuance of a driver's license only to those people who can establish lawful presence, but not issue such licenses to those who were the subject of the President's recent announcement until such time as the current dispute over his authority is resolved at the federal level.

NEW SECTION. **Sec.**  A new section is added to chapter 46.20 RCW to read as follows:

(1) Beginning August 1, 2015, any person obtaining or renewing his or her driver's license, driver's instruction permit, agricultural driving permit, identicard, or intermediate license must show proof of his or her United States citizenship or his or her lawful presence within the United States. An original or renewal application must not be granted to any person who does not provide verified proof of his or her United States citizenship or his or her lawful presence within the United States. A person who is a citizen or national of the United States, or who is a legal permanent resident alien, must not be required to provide proof under this subsection, so long as the department has a record of the person's status in compliance with subsection (4) of this section.

(2) A person may prove his or her citizenship by providing a valid, unexpired United States passport or passport card, a certified copy of a birth certificate, a consular report of birth abroad issued by the United States department of state, a certificate of naturalization issued by the department of homeland security, or a certificate of citizenship.

(3) A person may prove his or her lawful presence within the United States by providing documentation that he or she is an alien:

(a) Lawfully admitted for permanent or temporary residence in the United States;

(b) With conditional permanent resident status in the United States;

(c) Who has an approved application for asylum in the United States or has entered into the United States in refugee status;

(d) Who has a valid nonimmigrant status in the United States;

(e) Who has a pending application for asylum in the United States;

(f) Who has a pending or approved application for temporary protected status in the United States;

(g) Who has a pending application for lawful permanent residence or conditional permanent resident status; or

(h) Who has approved deferred action status from a deferred action program established before November 20, 2014. A person with approved deferred action status from a program established before November 1, 2014, that is based on any expansion of eligibility criteria to the deferred action program that occurred after November 20, 2014, is not an acceptable form of lawful presence under this subsection (3).

(4) The department must maintain records of an applicant's status as a United States citizen or as a noncitizen, including the type of document provided and the expiration of the applicant's authorization to lawfully be within the United States. The department must make such records available to the secretary of state and state and local criminal justice agencies.

(5) The department must verify the status of an applicant through either the systematic alien verification for entitlements program or through verification of the applicant's social security number with the United States social security administration.

(6) Any driver's license, driver's instruction permit, agricultural driving permit, identicard, or intermediate license issued to a person who has established lawful presence under subsection (3) of this section expires at the same time as the expiration date for the person's authorization to be in the United States, but under no circumstances may the expiration date of the license, identicard, or permit being issued by the department exceed the maximum term provided in statute for each license, identicard, or permit.

(7) The department may adopt rules to implement this section and to bring the state into compliance with the REAL ID act of 2005, 49 U.S.C. Sec. 30301, as it existed on January 1, 2015, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

NEW SECTION. **Sec.**  A new section is added to chapter 46.20 RCW to read as follows:

Any driver's license or other form of identification issued by a state that accepts as proof of lawful presence an approved deferred action status based on eligibility criteria that was established after November 20, 2014, must not be considered a valid form of identification in Washington state by the department. This restriction also applies to drivers' licenses or other forms of identification from states that accept as lawful presence an approved deferred action status from a deferred action program that was expanded after November 1, 2014.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1)RCW 43.41.390 (Implementation of federal REAL ID Act of 2005) and 2007 c 85 s 1; and

(2)RCW 46.20.191 (Compliance with federal REAL ID Act of 2005 requirements) and 2007 c 85 s 2.

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