

**ESB 5008 - H AMD 572**

By Representative Clibborn

ADOPTED 04/20/2017

1 Strike everything after the enacting clause and insert the  
2 following:

3 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.20  
4 RCW to read as follows:

5 (1) Beginning July 1, 2018, except for enhanced drivers' licenses  
6 and identicards issued under RCW 46.20.202, the department must mark  
7 a driver's license or identicard issued under this chapter in  
8 accordance with the requirements of 6 C.F.R. Sec. 37.71 as it existed  
9 on the effective date of this section, or such subsequent date as may  
10 be provided by the department by rule, consistent with the purposes  
11 of this section.

12 (2) The department must adopt rules necessary to implement this  
13 section.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.20  
15 RCW to read as follows:

16 (1) A driver's license or identicard issued with the design  
17 features required in section 1 of this act may not be used as  
18 evidence of or as a basis to infer an individual's citizenship or  
19 immigration status for any purpose.

20 (2) The presence of the design features required in section 1 of  
21 this act on a person's driver's license or identicard may not be used  
22 as a basis for the criminal investigation, arrest, or detention of  
23 that person in circumstances where a person with a driver's license  
24 or identicard without these design features would not be criminally  
25 investigated, arrested, or detained.

26 **Sec. 3.** RCW 46.20.202 and 2016 c 32 s 2 are each amended to read  
27 as follows:

28 (1) The department may enter into a memorandum of understanding  
29 with any federal agency for the purposes of facilitating the crossing

1 of the border between the state of Washington and the Canadian  
2 province of British Columbia.

3 (2) The department may enter into an agreement with the Canadian  
4 province of British Columbia for the purposes of implementing a  
5 border-crossing initiative.

6 (3)(a) The department may issue an enhanced driver's license or  
7 identicard for the purposes of crossing the border between the state  
8 of Washington and the Canadian province of British Columbia to an  
9 applicant who provides the department with proof of: United States  
10 citizenship, identity, and state residency. The department shall  
11 continue to offer a standard driver's license and identicard. If the  
12 department chooses to issue an enhanced driver's license, the  
13 department must allow each applicant to choose between a standard  
14 driver's license or identicard, or an enhanced driver's license or  
15 identicard.

16 (b) The department shall implement a one-to-many biometric  
17 matching system for the enhanced driver's license or identicard. An  
18 applicant for an enhanced driver's license or identicard shall submit  
19 a biometric identifier as designated by the department. The biometric  
20 identifier must be used solely for the purpose of verifying the  
21 identity of the holders and for any purpose set out in RCW 46.20.037.  
22 Applicants are required to sign a declaration acknowledging their  
23 understanding of the one-to-many biometric match.

24 (c) The enhanced driver's license or identicard must include  
25 reasonable security measures to protect the privacy of Washington  
26 state residents, including reasonable safeguards to protect against  
27 unauthorized disclosure of data about Washington state residents. If  
28 the enhanced driver's license or identicard includes a radio  
29 frequency identification chip, or similar technology, the department  
30 shall ensure that the technology is encrypted or otherwise secure  
31 from unauthorized data access.

32 (d) The requirements of this subsection are in addition to the  
33 requirements otherwise imposed on applicants for a driver's license  
34 or identicard. The department shall adopt such rules as necessary to  
35 meet the requirements of this subsection. From time to time the  
36 department shall review technological innovations related to the  
37 security of identity cards and amend the rules related to enhanced  
38 driver's licenses and identicards as the director deems consistent  
39 with this section and appropriate to protect the privacy of  
40 Washington state residents.

1 (e) Notwithstanding RCW 46.20.118, the department may make images  
2 associated with enhanced drivers' licenses or identicards from the  
3 negative file available to United States customs and border agents  
4 for the purposes of verifying identity.

5 ~~(4)((a) Between July 15, 2015, and June 30, 2016, the fee for an~~  
6 ~~enhanced driver's license or enhanced identicard is eighteen dollars,~~  
7 ~~which is in addition to the fees for any regular driver's license or~~  
8 ~~identicard. If the enhanced driver's license or enhanced identicard~~  
9 ~~is issued, renewed, or extended for a period other than six years,~~  
10 ~~the fee for each class is three dollars for each year that the~~  
11 ~~enhanced driver's license or enhanced identicard is issued, renewed,~~  
12 ~~or extended.~~

13 ~~(b))~~ Beginning ~~((July 1, 2016))~~ on the effective date of this  
14 section, the fee for an enhanced driver's license or enhanced  
15 identicard is ~~((fifty-four))~~ twenty-four dollars, which is in  
16 addition to the fees for any regular driver's license or identicard.  
17 If the enhanced driver's license or enhanced identicard is issued,  
18 renewed, or extended for a period other than six years, the fee for  
19 each class is ~~((nine))~~ four dollars for each year that the enhanced  
20 driver's license or enhanced identicard is issued, renewed, or  
21 extended.

22 (5) The enhanced driver's license and enhanced identicard fee  
23 under this section must be deposited into the highway safety fund  
24 unless prior to July 1, 2023, the actions described in (a) or (b) of  
25 this subsection occur, in which case the portion of the revenue that  
26 is the result of the fee increased in section 209, chapter 44, Laws  
27 of 2015 3rd sp. sess. must be distributed to the connecting  
28 Washington account created under RCW 46.68.395.

29 (a) Any state agency files a notice of rule making under chapter  
30 34.05 RCW for a rule regarding a fuel standard based upon or defined  
31 by the carbon intensity of fuel, including a low carbon fuel standard  
32 or clean fuel standard.

33 (b) Any state agency otherwise enacts, adopts, orders, or in any  
34 way implements a fuel standard based upon or defined by the carbon  
35 intensity of fuel, including a low carbon fuel standard or clean fuel  
36 standard.

37 (c) Nothing in this subsection acknowledges, establishes, or  
38 creates legal authority for the department of ecology or any other  
39 state agency to enact, adopt, order, or in any way implement a fuel

1 standard based upon or defined by the carbon intensity of fuel,  
2 including a low carbon fuel standard or clean fuel standard.

3 NEW SECTION. **Sec. 4.** RCW 43.41.390 (Implementation of federal  
4 REAL ID Act of 2005) and 2007 c 85 s 1 are each repealed."

5 Correct the title.

EFFECT: Makes the following changes related to driver's licenses and identicards:

(1) Prohibits the use of a standard driver's license or identicard with the specified design features as evidence of or as a basis to infer an individual's citizenship or immigration status;

(2) Prohibits the use of a person's standard driver's license or identicard with the specified design features as a basis for the criminal investigation, arrest, or detention of that person where the person otherwise would not be criminally investigated, arrested, or detained;

(3) Modifies the reduction in the fee for a full-term enhanced driver's license and an enhanced identicard from \$66 to \$78 (from the current fee of \$108); and

(4) Preserves the restriction on DOL from issuing REAL ID-compliant drivers' licenses or identicards or from storing or including data about state residents to meet the requirements of the REAL ID Act until it provides certification that its driver's license, identicard, database, records facility, computer system, and personnel screening and training procedures:

(a) Include all reasonable security measures to protect the privacy of state residents;

(b) Include all reasonable safeguards to protect against the unauthorized disclosure of data; and

(c) Do not place unreasonable costs or recordkeeping burdens on a driver's license or identicard applicant.

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