

2015 DRAFTING REQUEST

Bill

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Pre Topic:

No specific pre topic given

Topic:

Legal presence requirement of REAL ID noncompliant operator licenses and identification cards

Instructions:

Wants companion for LRB-1006/1

Drafting History:

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FE Sent For:

*at
intro*

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TODAY

-2864/1

LRB-10061

ARG:jld/emw/amm

amm

in 8/6

2015 BILL

SAY

Companion - no changes

1 **AN ACT to renumber and amend** 343.14 (2) (br) and 343.14 (2) (es); **to amend**
2 343.03 (3m), 343.14 (2j), 343.165 (1) (c), 343.165 (1) (e), 343.165 (3) (b), 343.165
3 (3) (c), 343.165 (4) (b), 343.165 (4) (d), 343.165 (7) (a) (intro.), 343.20 (1) (a),
4 343.20 (1) (f), 343.20 (1m), 343.20 (2) (a), 343.31 (3) (a), 343.38 (3), 343.50 (3),
5 343.50 (5) (b), 343.50 (5) (c), 343.50 (6) and 343.50 (10) (c); and **to create** 343.14
6 (2) (br) 2., 343.14 (2) (es) 2m., 343.165 (7) (c), 343.17 (3) (a) 16., 343.31 (2v),
7 343.39 (1) (d), 343.50 (5) (bm) and 343.50 (8) (c) 6. of the statutes; **relating to:**
8 issuance of motor vehicle operator's licenses and identification cards by the
9 Department of Transportation.

Analysis by the Legislative Reference Bureau

Under 2007 Wisconsin Act 20, certain provisions specified in the federal REAL ID Act of 2005 (REAL ID) were incorporated into state law and these provisions became effective on January 1, 2013. Among these provisions was the requirement that the Department of Transportation (DOT) follow certain procedures in processing applications for driver's licenses and identification cards. However, under 2011 Wisconsin Acts 23 and 32, DOT may process applications for driver's licenses and identification cards in a manner other than that required by REAL ID

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if the driver's licenses and identification cards are marked to indicate that they are not REAL ID compliant and DOT processes the applications in compliance with DOT practices and procedures applicable immediately prior to implementation of REAL ID.

Under current law, an applicant for a driver's license or identification card, regardless of whether it is REAL ID compliant or REAL ID noncompliant, must provide to DOT: 1) an identification document that includes either the applicant's photograph or both the applicant's full legal name and date of birth; 2) documentation showing the applicant's date of birth, which may be the same as item 1), above; 3) proof of the applicant's social security number or verification that the applicant is not eligible for a social security number; 4) documentation showing the applicant's name and address of principal residence; and 5) documentary proof that the applicant is a U.S. citizen or is otherwise lawfully present in the United States. However, in processing an application for a REAL ID noncompliant driver's license or identification card, DOT is not required to meet the standards for document retention and verification that are imposed for REAL ID compliant products.

Under this bill, an applicant for a REAL ID noncompliant driver's license or identification card is not required to provide documentary proof that the applicant is a U.S. citizen or is otherwise lawfully present in the United States. If the applicant does not have a social security number, the applicant is required to provide verification only that he or she does not have one, rather than verification that he or she is not eligible for one. In processing an application for, and issuing or renewing, a REAL ID noncompliant driver's license or identification card, DOT may not include any question or require any proof or documentation as to whether the applicant is a U.S. citizen or is otherwise lawfully present in the United States. The bill does not change any current law requirements related to driver qualifications such as minimum age or successful completion of knowledge and driving skills tests.

Under current law, most driver's licenses issued by DOT are issued for an initial two-year period and must be renewed every eight years thereafter. In general, an applicant for renewal of a driver's license must pass an eyesight test and have his or her photograph taken with each renewal. Most identification cards issued by DOT are issued for an initial period of eight years and are renewable for eight-year periods thereafter. In general, applicants for renewal of an identification card must have their photograph taken with each renewal.

Under this bill, an applicant for a REAL ID noncompliant driver's license or identification card who does not provide a social security number is issued a driver's license or identification card that displays, on its face, the words "Not valid for voting purposes" and that has a two-year renewal period rather than an eight-year renewal period. The initial period for such an identification card under the bill is also two years. With each renewal, DOT has discretion whether or not to take a new photograph, and, for a driver's license, give an eyesight test, as long as a new photograph is taken, and, for a driver's license, an eyesight test is given, at least once every eight years. If DOT issues a REAL ID noncompliant driver's license to an applicant who does not provide a social security number, the applicant must, no later than 30 days after initial issuance of the license and each license renewal, provide

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to DOT proof of motor vehicle liability insurance coverage for each motor vehicle owned or leased by the applicant. If proof is required and the applicant fails to timely provide such proof, DOT must suspend the applicant's operating privilege until proof is provided.

With limited exceptions, DOT may not disclose social security numbers obtained from operator's license or identification card applicants. This bill prohibits DOT from disclosing the fact that an applicant has verified to DOT that the applicant does not have a social security number, except that DOT may disclose this information to the Government Accountability Board.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 343.03 (3m) of the statutes is amended to read:

2 343.03 (3m) NONCITIZEN TEMPORARY LICENSE. If the issuance of any license
3 described under sub. (3) requires the license applicant to present any documentary
4 proof specified in s. 343.14 (2) (es) ~~4. to 7.~~ 1m. d. to g., the license shall display on the
5 front side of the license, in addition to any legend or label described in sub. (3), a
6 legend identifying the license as temporary. This noncitizen temporary license may
7 not be renewed except as provided in s. 343.165 (4) (c).

8 **SECTION 2.** 343.14 (2) (br) of the statutes is renumbered 343.14 (2) (br) 1. and
9 amended to read:

10 343.14 (2) (br) 1. If Except as provided in subd. 2., if the applicant does not have
11 a social security number, a statement made or subscribed under oath or affirmation
12 that the applicant does not have a social security number and is not eligible for a
13 social security number. The statement shall provide the basis or reason that the
14 applicant is not eligible for a social security number, as well as any information
15 requested by the department that may be needed by the department for purposes of
16 verification under s. 343.165 (1) (c). The form of the statement shall be prescribed

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1 by the department, with the assistance of the department of children and families.

2 A license that is issued or renewed under s. 343.17 in reliance on a statement
3 submitted under this ~~paragraph~~ subdivision is invalid if the statement is false.

4 **SECTION 3.** 343.14 (2) (br) 2. of the statutes is created to read:

5 343.14 (2) (br) 2. If the applicant does not have a social security number and
6 the application is for an operator's license that contains the marking specified in s.
7 343.03 (3r) or an identification card that contains the marking specified in s. 343.50
8 (3) (b), a statement made or subscribed under oath or affirmation that the applicant
9 does not have a social security number. The form of the statement shall be prescribed
10 by the department, with the assistance of the department of children and families.
11 A license that is issued or renewed under s. 343.17 in reliance on a statement
12 submitted under this subdivision is invalid if the statement is false.

13 **SECTION 4.** 343.14 (2) (es) of the statutes is renumbered 343.14 (2) (es) 1m., and
14 343.14 (2) (es) 1m. (intro.), as renumbered, is amended to read:

15 343.14 (2) (es) 1m. (intro.) Subject to sub. (2g) (a) 2. d. and s. 343.125 (2) (a) and
16 (b), and except as provided in subd. 2m., valid documentary proof that the individual
17 is a citizen or national of the United States or an alien lawfully admitted for
18 permanent or temporary residence in the United States or has any of the following:

19 **SECTION 5.** 343.14 (2) (es) 2m. of the statutes is created to read:

20 343.14 (2) (es) 2m. Valid documentary proof under subd. 1m. is not required if
21 the application is for an operator's license that contains the marking specified in s.
22 343.03 (3r) or an identification card that contains the marking specified in s. 343.50
23 (3) (b).

24 **SECTION 6.** 343.14 (2j) of the statutes is amended to read:

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1 343.14 (2j) Except as otherwise required to administer and enforce this
2 chapter, the department of transportation may not disclose a social security number
3 obtained from an applicant for a license under sub. (2) (bm) to any person except to
4 the department of children and families for the sole purpose of administering s.
5 49.22, to the department of workforce development for the sole purpose of enforcing
6 or administering s. 108.22, to the department of revenue for the purposes of
7 administering state taxes and collecting debt, or to the driver licensing agency of
8 another jurisdiction. The department of transportation may not disclose to any
9 person the fact that an applicant has provided verification under s. 343.165 (7) (c) 2.
10 that the applicant does not have a social security number, except to the government
11 accountability board for purposes of administering the agreement described in s.
12 5.056.

13 **SECTION 7.** 343.165 (1) (c) of the statutes is amended to read:

14 343.165 (1) (c) Proof of the applicant's social security number or, except as
15 provided in sub. (7) (c) 2. and s. 343.14 (2g) (a) 4., verification that the applicant is
16 not eligible for a social security number.

17 **SECTION 8.** 343.165 (1) (e) of the statutes is amended to read:

18 343.165 (1) (e) Subject to ss. 343.125 (2) (a) and (b) and 343.14 (2g) (a) 2. d., and
19 except as provided in sub. (7) (c) 1. and s. 343.14 (2) (es) 2m., the documentary proof
20 described in s. 343.14 (2) (es) 1m.

21 **SECTION 9.** 343.165 (3) (b) of the statutes is amended to read:

22 343.165 (3) (b) The department may not accept any foreign document, other
23 than an official passport, to satisfy a requirement under sub. (1). This paragraph
24 does not apply to an application processed under sub. (7) (c).

25 **SECTION 10.** 343.165 (3) (c) of the statutes is amended to read:

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1 343.165 (3) (c) For purposes of par. (a) and sub. (1) (c), if an applicant presents
2 a social security number that is already registered to or associated with another
3 person, the department shall direct the applicant to investigate and take appropriate
4 action to resolve the discrepancy and shall not issue any operator's license or
5 identification card until the discrepancy is resolved. The department shall adopt
6 procedures for purposes of verifying that an applicant is not eligible for a social
7 security number, except with respect to applications processed under sub. (7) (c).

8 **SECTION 11.** 343.165 (4) (b) of the statutes is amended to read:

9 343.165 (4) (b) The department shall establish an effective procedure to
10 confirm or verify an applicant's information for purposes of any application described
11 in par. (a). The procedure shall include verification of the applicant's social security
12 number or, except with respect to applications processed under sub. (7) (c),
13 ineligibility for a social security number.

14 **SECTION 12.** 343.165 (4) (d) of the statutes is amended to read:

15 343.165 (4) (d) With any license or identification card renewal following a
16 license or identification card expiration established under s. 343.20 (1) (a) or (1m) or
17 343.50 (5) (bm) or (c) at other than an 8-year interval, the department may
18 determine whether the applicant's photograph is to be taken, or if the renewal is for
19 a license the applicant is to be examined, or both, at the time of such renewal, so long
20 as the applicant's photograph is taken, and if the renewal is for a license the
21 applicant is examined, with a license or card renewal at least once every 8 years and
22 the applicant's license or identification card at all times includes a photograph unless
23 an exception under s. 343.14 (3m) or 343.50 (4g) applies.

24 **SECTION 13.** 343.165 (7) (a) (intro.) of the statutes is amended to read:

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1 343.165 (7) (a) (intro.) The Subject to par. (c), the department may process an
2 application for, and issue or renew, an operator's license or identification card
3 without meeting the requirements under subs. (2) and (3) if all of the following apply:

4 **SECTION 14.** 343.165 (7) (c) of the statutes is created to read:

5 343.165 (7) (c) 1. Notwithstanding s. 343.14 (2) (f), in processing an application
6 for, and issuing or renewing, an operator's license that contains the marking
7 specified in s. 343.03 (3r) or an identification card that contains the marking
8 specified in s. 343.50 (3) (b), the department may not include any question or require
9 any proof or documentation as to whether the applicant is a citizen or national of the
10 United States or lawfully present in the United States.

11 2. For an application processed under this paragraph, if the applicant does not
12 provide proof of the applicant's social security number, the applicant shall provide
13 verification, in the manner described in s. 343.14 (2) (br) 2., that the applicant does
14 not have a social security number.

15 3. If the department issues an operator's license to an applicant who provides
16 verification under subd. 2. that he or she does not have a social security number, the
17 applicant shall, no later than 30 days after initial issuance of the license and each
18 license renewal, provide to the department proof of compliance with s. 344.62 (1) for
19 each motor vehicle owned by the applicant or leased by the applicant for a period of
20 one year or more. No proof is required of an applicant under this subdivision unless
21 the applicant owns or leases a motor vehicle in this state.

22 **SECTION 15.** 343.17 (3) (a) 16. of the statutes is created to read:

23 343.17 (3) (a) 16. If the license is marked as provided in s. 343.03 (3r) and the
24 license applicant did not provide a verified social security number with the license
25 application, the words "Not valid for voting purposes."

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1 **SECTION 16.** 343.20 (1) (a) of the statutes, as affected by 2015 Wisconsin Act 55,
2 is amended to read:

3 343.20 (1) (a) Except as otherwise expressly provided in this chapter,
4 probationary licenses issued under s. 343.085 shall expire 2 years from the date of
5 the applicant's next birthday. Licenses issued after cancellation shall expire on the
6 expiration date for the prior license at the time of cancellation. Subject to s. 343.125
7 (3), all other licenses and license endorsements shall expire 8 years after the date of
8 issuance or, if the license application was processed under s. 343.165 (7) (c) and the
9 applicant did not provide a verified social security number, 2 years after the date of
10 issuance. The department may institute any system of initial license issuance which
11 it deems advisable for the purpose of gaining a uniform rate of renewals. In order
12 to put such a system into operation, the department may issue licenses which are
13 valid for any period less than the ordinary effective period of such license. If the
14 department issues a license that is valid for less than the ordinary effective period
15 as authorized by this paragraph, the fees due under s. 343.21 (1) (b) and (d) shall be
16 prorated accordingly.

17 **SECTION 17.** 343.20 (1) (f) of the statutes is amended to read:

18 343.20 (1) (f) The department shall cancel an operator's license, regardless of
19 the license expiration date, if the department receives information from a local, state,
20 or federal government agency that the licensee no longer satisfies the requirements
21 for issuance of a license under ss. 343.14 (2) (es) and 343.165 (1) (e). This paragraph
22 does not apply to an operator's license if the license application was processed under
23 s. 343.165 (7) (c).

24 **SECTION 18.** 343.20 (1m) of the statutes, as affected by 2015 Wisconsin Act 55,
25 is amended to read:

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1 343.20 (1m) Notwithstanding sub. (1) (a), and except as provided in s. 343.165
2 (4) (c) and as otherwise provided in this subsection, a license that is issued to a person
3 who is not a United States citizen or permanent resident and who provides
4 documentary proof of legal status as provided under s. 343.14 (2) (es) ~~2., 4., 5., 6., or~~
5 ~~7.~~ 1m. b., d., e., f., or g. shall expire on the date that the person's legal presence in the
6 United States is no longer authorized or on the expiration date determined under
7 sub. (1), whichever date is earlier. If the documentary proof as provided under s.
8 343.14 (2) (es) 1m. does not state the date that the person's legal presence in the
9 United States is no longer authorized, sub. (1) shall apply except that, if the license
10 was issued or renewed based upon the person's presenting of any documentary proof
11 specified in s. 343.14 (2) (es) ~~4. to 7.~~ 1m. d. to g., the license shall, subject to s. 343.165
12 (4) (c), expire one year after the date of issuance or renewal. This subsection does not
13 apply to a license that contains the marking specified in s. 343.03 (3r).

14 **SECTION 19.** 343.20 (2) (a) of the statutes is amended to read:

15 343.20 (2) (a) At least 30 days prior to the expiration of an operator's license,
16 the department shall provide to the licensee notice of renewal of the license either
17 by mail at the licensee's last-known address or, if desired by the licensee, by any
18 electronic means offered by the department. If the license was issued or last renewed
19 based upon the person's presenting of any documentary proof specified in s. 343.14
20 (2) (es) ~~4. to 7.~~ 1m. d. to g., the notice shall inform the licensee of the requirement
21 under s. 343.165 (4) (c).

22 **SECTION 20.** 343.31 (2v) of the statutes is created to read:

23 343.31 (2v) The department shall suspend the operating privilege of a person
24 who is required to provide proof under s. 343.165 (7) (c) 3. and who fails to provide
25 proof within the time specified in s. 343.165 (7) (c) 3. The period of suspension shall

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1 expire, and the department shall reinstate the person's operating privilege, when the
2 person provides the proof required under s. 343.165 (7) (c) 3.

3 **SECTION 21.** 343.31 (3) (a) of the statutes is amended to read:

4 343.31 (3) (a) Except as otherwise provided in this subsection or sub. (2m), (2s),
5 (2t), (2v), or (2x), all revocations or suspensions under this section shall be for a
6 period of one year.

7 **SECTION 22.** 343.38 (3) of the statutes is amended to read:

8 343.38 (3) REINSTATEMENT AFTER SUSPENSION. Except as provided in sub. (2) and
9 s. 343.10, the department shall not reinstate the operating privilege of a person
10 whose operating privilege has been duly suspended while the suspension remains in
11 effect. Subject Except as provided in ss. 343.31 (2v) and 343.39 (1) (d), and subject
12 to s. 343.31 (2t) (b), upon the expiration of the period of suspension, the person's
13 operating privilege is reinstated upon receipt by the department of the fees specified
14 in s. 343.21 (1) (j) and (n) and, for reinstatement of an operating privilege suspended
15 under ch. 344, the filing with the department of proof of financial responsibility, if
16 required, in the amount, form, and manner specified under ch. 344.

17 **SECTION 23.** 343.39 (1) (d) of the statutes is created to read:

18 343.39 (1) (d) When, in the case of a suspension for failure to timely provide
19 proof under s. 343.165 (7) (c) 3., such proof is provided. The fees specified in s. 343.21
20 (1) (j) and (n) do not apply to a reinstatement under this paragraph.

21 **SECTION 24.** 343.50 (3) of the statutes is amended to read:

22 343.50 (3) (a) The card shall be the same size as an operator's license but shall
23 be of a design which is readily distinguishable from the design of an operator's license
24 and bear upon it the words "IDENTIFICATION CARD ONLY." The information on
25 the card shall be the same as specified under s. 343.17 (3). If the issuance of the card

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1 requires the applicant to present any documentary proof specified in s. 343.14 (2) (es)
2 ~~4. to 7. 1m. d. to g.~~, the card shall display, on the front side of the card, a legend
3 identifying the card as temporary. The card shall contain physical security features
4 consistent with any requirement under federal law. The card may serve as a record
5 of gift under s. 157.06 (2) (t) and the holder may affix a sticker thereto as provided
6 in s. 343.175 (3). The card may also serve as a record of refusal under s. 157.06 (2)
7 (u). Except as provided in sub. (4g), the card shall contain the holder's photograph
8 and, if applicable, shall be of the design specified under s. 343.17 (3) (a) 12.

9 (b) If an identification card is issued based upon the exception specified in s.
10 343.165 (7), the card shall, in addition to any other required legend or design, be of
11 the design specified under s. 343.17 (3) (a) 14. and include a marking similar or
12 identical to the marking described in s. 343.03 (3r) and, if applicable, the words
13 specified in s. 343.17 (3) (a) 16.

14 **SECTION 25.** 343.50 (5) (b) of the statutes, as affected by 2015 Wisconsin Act 55,
15 is amended to read:

16 343.50 (5) (b) Except as provided in pars. (bm), (c), and (d) and s. 343.165 (4)
17 (c), an original or reinstated card shall be valid for the succeeding period of 8 years
18 from the applicant's next birthday after the date of issuance, and a renewed card
19 shall be valid for the succeeding period of 8 years from the card's last expiration date.

20 **SECTION 26.** 343.50 (5) (bm) of the statutes is created to read:

21 343.50 (5) (bm) Notwithstanding par. (d), if the identification card application
22 was processed under s. 343.165 (7) (c) and the applicant did not provide a verified
23 social security number, an original or reinstated card shall be valid for the succeeding
24 period of 2 years from the applicant's next birthday after the date of issuance, and

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1 a renewed card shall be valid for the succeeding period of 2 years from the card's last
2 expiration date.

3 **SECTION 27.** 343.50 (5) (c) of the statutes is amended to read:

4 343.50 (5) (c) Except as provided in s. 343.165 (4) (c) and as otherwise provided
5 in this paragraph, an identification card that is issued to a person who is not a United
6 States citizen and who provides documentary proof of legal status as provided under
7 s. 343.14 (2) (es) 1m. shall expire on the date that the person's legal presence in the
8 United States is no longer authorized or on the expiration date determined under
9 par. (b), whichever date is earlier. If the documentary proof as provided under s.
10 343.14 (2) (es) 1m. does not state the date that the person's legal presence in the
11 United States is no longer authorized, then the card shall be valid for the period
12 specified in par. (b) except that, if the card was issued or renewed based upon the
13 person's presenting of any documentary proof specified in s. 343.14 (2) (es) ~~4. to 7.~~
14 1m. d. to g., the card shall, subject to s. 343.165 (4) (c), expire one year after the date
15 of issuance or renewal. This paragraph does not apply to an identification card that
16 contains the marking specified in sub. (3) (b).

17 **SECTION 28.** 343.50 (6) of the statutes is amended to read:

18 343.50 (6) RENEWAL NOTICE. At least 30 days prior to the expiration of an
19 identification card, the department shall provide to the card holder notice of renewal
20 of the card either by mail at the card holder's last-known address or, if desired by
21 the card holder, by any electronic means offered by the department. If the card was
22 issued or last renewed based upon the person's presenting of any documentary proof
23 specified in s. 343.14 (2) (es) ~~4. to 7.~~ 1m. d. to g., the notice shall inform the card holder
24 of the requirement under s. 343.165 (4) (c). The department shall include with the
25 notice information, as developed by all organ procurement organizations in

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1 cooperation with the department, that promotes anatomical donations and which
2 relates to the anatomical donation opportunity available under s. 343.175. The
3 department may renew an identification card by mail or by any electronic means
4 available to the department, but the department may not make consecutive renewals
5 by mail or electronic means.

6 **SECTION 29.** 343.50 (8) (c) 6. of the statutes is created to read:

7 343.50 (8) (c) 6. Notwithstanding any other provision of par. (b) and this
8 paragraph, the department may not disclose to any person the fact that an applicant
9 has provided verification under s. 343.165 (7) (c) 2. that the applicant does not have
10 a social security number, except to the government accountability board for purposes
11 of administering the agreement described in s. 5.056.

12 **SECTION 30.** 343.50 (10) (c) of the statutes is amended to read:

13 343.50 (10) (c) Whenever the department receives information from a local,
14 state, or federal government agency that the card holder no longer satisfies the
15 requirements for issuance of a card under ss. 343.14 (2) (es) and 343.165 (1) (e). A
16 card cancelled under this paragraph may not be reinstated under sub. (5) until these
17 requirements are again satisfied. This paragraph does not apply to a card if the card
18 application was processed under s. 343.165 (7) (c).

19 **SECTION 31. Initial applicability.**

20 (1) This act first applies to applications received by the department of
21 transportation on the effective date of this subsection.

22 **SECTION 32. Effective date.**

23 (1) This act takes effect on the first day of the 4th month beginning after
24 publication.

25 (END)

Parisi, Lori

From: Jurenci, Cassie
Sent: Thursday, August 06, 2015 12:48 PM
To: LRB.Legal
Subject: Draft Review: LRB -2864/1 Topic: Legal presence requirement of REAL ID noncompliant operator licenses and identification cards

Please Jacket LRB -2864/1 for the SENATE.