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THIRD READING

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Bill No: AB 1766  
Author: Stone (D), Friedman (D), Cristina Garcia (D), Gipson (D), Jones-Sawyer (D), Kalra (D) and Robert Rivas (D), et al.  
Amended: 8/24/22 in Senate  
Vote: 21

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SENATE TRANSPORTATION COMMITTEE: 11-2, 6/14/22  
AYES: Gonzalez, Allen, Becker, Cortese, Dodd, Limón, McGuire, Min, Newman, Skinner, Wieckowski  
NOES: Bates, Melendez  
NO VOTE RECORDED: Archuleta, Dahle, Rubio, Wilk

SENATE JUDICIARY COMMITTEE: 9-1, 6/28/22  
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener  
NOES: Jones  
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22  
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski  
NOES: Bates, Jones

ASSEMBLY FLOOR: 59-13, 5/26/22 - See last page for vote

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**SUBJECT:** Department of Motor Vehicles: driver's licenses and identification cards

**SOURCE:** Author

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**DIGEST:** This bill requires the Department of Motor Vehicles (DMV) to issue restricted California identification cards to an undocumented immigrant, if the person is eligible for a California identification card in all other respects.

*Senate Floor Amendments* of 8/24/22 clarify the notice to be printed on all driver's licenses and California identification (ID) cards be updated, at the time of the next DMV revision on or after January 1, 2023, to include that federally non-compliant driver's licenses and IDs do not establish eligibility for firearms purchases; clarify that no government agency or department, as specified; commercial entity; or other requester shall obtain or use non-criminal history information maintained by the DMV for purposes of immigration enforcement; clarify that immigration enforcement does not constitute an urgent health and safety need that would allow law enforcement to request access to DMV documents without a court order; and incorporate provisions of SB 523 (Leyva) to prevent chaptering out.

### **ANALYSIS:**

Existing law:

- 1) Requires the DMV to issue an original driver's license to applicants who cannot provide satisfactory proof that their presence in the United States is authorized under federal law if they meet all other qualifications and provide satisfactory proof to the DMV of their identity and California residency.
- 2) Requires the Department of Corrections and Rehabilitation (CDCR) and the DMV to ensure that all eligible inmates released from state prisons have valid California Identification (ID) cards.
- 3) Defines "eligible inmate" to mean an inmate who meets all of the following: a) the inmate has previously held a California driver's license or ID card; b) the inmate has a usable photo on file with the DMV that is not more than 10 years old; c) the inmate has no outstanding fees due for a prior California ID card; and d) the inmate has provided, and the DMV has verified, the inmate's true full name, date of birth, social security number, and legal presence in the U.S.
- 4) Prohibits the DMV from disclosing documents submitted for purposes of obtaining a driver's license or ID card absent a subpoena for individual records in a criminal court proceeding or a court order, or in response to a law enforcement request to address an urgent health or safety need if the law enforcement agency certifies in writing the specific circumstances that do not permit authorities time to obtain a court order. Also establishes that such documents and information is not a public record.
- 5) Requires the DMV to print on certain non-federally compliant, non-REAL ID driver's licenses the following notice, "This card is not acceptable for official

federal purposes. This license is issued only as a license to drive a motor vehicle. It does not establish eligibility for employment, voter registration, or public benefits.”

- 6) Makes it unlawful to discriminate against a person because the person holds or presents a driver’s license issued under specified sections of the Vehicle Code.
- 7) Prohibits law enforcement agencies (including school police and security departments) from using resources to investigate, interrogate, detain, detect, or arrest people for immigration enforcement purposes.

This bill:

- 1) Requires the DMV, commencing no later than January 1, 2027, to issue restricted ID cards to eligible applicants who are unable to verify their legal presence in the United States as authorized under federal law.
- 2) Clarifies that immigration enforcement, as specified, does not constitute an urgent health and safety need that would allow law enforcement to request access to DMV documents submitted for purposes of obtaining a driver’s license or ID card without a court order.
- 3) Revises one of the definitions for an “eligible inmate” for obtaining a driver’s license or ID card, to mean the DMV has verified the inmate’s legal presence in the U.S. or if the inmate is unable to submit satisfactory proof that their presence in the U.S. is authorized under federal law, the inmate has provided proof of their identity, as specified.
- 4) Requires ID cards, issued pursuant to this bill, to bear the following notice: “This card is not acceptable for official federal purposes. This identification card is issued only as a means of identification. It does not establish eligibility for employment, voter registration, or public benefits.”
- 5) Requires DMV, at the time of the next schedule revision of the ID cards, to update the notice printed on the ID cards to include, but not be limited to:
  - a) For REAL ID identification cards that the identification card is issued only as a means of identification and does not establish eligibility for employment, voter registration, or public benefits.

- b) For a non-federally compliant, non-REAL ID identification cards that the identification card is issued only as a means of identification, it does not establish eligibility for employment, firearms purchases, voter registration, or public benefits, and it is not acceptable for official federal purposes.
- 6) Requires DMV, at the time of the next schedule revision of driver's licenses, to update the notice printed on the driver's license to include, but not be limited to:
    - a) For REAL ID driver's license that the license is issued as a license to drive a motor vehicle, and that it does not establish eligibility for employment, voter registration, or public benefits.
    - b) For a non-federally compliant, non-REAL ID driver's license that the license is issued as a license to drive a motor vehicle, it does not establish eligibility for employment, firearms purchases, voter registration, or public benefits, and it is not acceptable for official federal purposes.
  - 7) Prohibits discrimination against a person because the person holds or presents an ID card issued under the provisions of this bill.
  - 8) Prohibits the use of an ID card issued under the provisions of this bill from being used as evidence of an individual's citizenship or immigration status for any purpose.
  - 9) Clarifies that no government agency or department, as specified; commercial entity; or other requester shall obtain, access, use, or otherwise disclose, non-criminal history information maintained by the DMV for purposes of immigration enforcement, as specified.
  - 10) Deletes obsolete provisions.
  - 11) Incorporates provisions of SB 523 (Leyva) as both bills amend Section 12926 of the Government Code to prevent chaptering out.

## Comments

- 1) *Purpose.* According to the author, "Identification cards enable inclusion and meaningful participation in our neighborhoods, cities, and our state. IDs allow one to open a bank account, obtain benefits, access healthcare, secure housing, and much more. However, if a person who is

undocumented does not have meaningful access to a car or have the ability to take a driving test, they are rendered ineligible for a government-issued ID. Those individuals may rely on gym memberships or college/university IDs *if* they have access to those institutions. Otherwise, they can use a passport or consular ID to corroborate their identities, however, this is an often risky "outing" process for those who are not legally present in the United States. Individuals with mobility issues, disabilities such as epilepsy, and those who are older and develop degenerative eye, muscular, or cognitive diseases are not able to obtain driver's licenses and thus, do not have access to a state government-issued ID. Additionally, undocumented people leaving incarceration are also unable to obtain an original AB 60 driver's license because they cannot access a driving test in prison. AB 1766 will expand ID access for all, regardless of immigration status. Under this bill, California ID eligibility will be expanded to approximately 1.6 million undocumented people."

- 2) *AB 60 background.* AB 60 (Alejo, Chapter 524, Statutes of 2013), permitted a person unable to provide a social security number (SSN) to submit several alternative forms of documentation to show proof of identity and obtain a driver's license. AB 60 declared that discrimination against AB 60 license holders is a violation of the Unruh Civil Rights Act, which outlaws discrimination by a business establishment. The law also bars authorities from inferring the citizenship or immigration status of the license holder as a basis for criminal investigation proceedings. The statute has since been amended by AB 1660 (Alejo, Chapter 452, Statutes 2014), and Government Code Section 11135, to include additional anti-discrimination protections and require the California Research Bureau (CRB) to compile and submit to the Legislature and the Governor a report of any violations of these anti-discrimination provisions.

Likewise, prior to the passage of AB 60, several cities in California passed laws creating a municipal ID card. San Francisco County began issuing ID cards to undocumented immigrants in 2009, followed by the City of Oakland in 2013, and the City of Richmond in 2014.

AB 1766 requires the DMV, no later than January 1, 2027, to issue ID cards to any person who is unable to submit proof of lawful presence in the United States, as authorized under federal law, if they are otherwise able to demonstrate proof of their identity and California residency. It is important to note that these criteria are now used by DMV to issue driver's licenses (to

individuals who qualify, but are not DACA participants). Current law also contains restrictions on what AB 60 driver's licenses can be used for. A driver's licenses, issued pursuant to AB 60, states, "This card is not acceptable for official federal purposes. This license is issued only as a license to drive a motor vehicle. It does not establish eligibility for employment, voter registration, or public benefits." AB 1766 requires ID cards to state, "This card is not acceptable for official federal purposes. It does not establish eligibility for employment, voter registration, or public benefits." Additionally, to update the restrictions for all federally non-compliant, non-REAL ID driver's licenses and ID cards, the bill requires DMV to update these statements upon the next scheduled revision of the driver's licenses and ID cards, which DMV anticipates could be in the next few years, to also include that they cannot be used to establish eligibility for firearms purchases.

- 3) *DMV Data and ICE*. In recent years, there has been a concern about Immigration and Customs enforcement (ICE) using the DMV database to find the address of undocumented immigrants. The American Civil Liberties Union (ACLU) and the National Immigration Law Center (NILC) released a report in December 2018 for the purpose of providing "as much information as possible about how and what information is shared with the Department of Homeland Security (DHS) and its agencies, so that California residents can effectively weigh the risks and benefits of obtaining a driver's license." According to the report, between January 1, 2017 and April 10, 2018, DHS agencies made 594 inquiries to the DMV driver's license database and 1,085 inquiries to the DMV vehicle registration database by telephone. In 2017, DHS agencies made 113 inquiries to the driver's license database and 1,149 inquiries to the vehicle registration database through online access; and in the first three months of 2018, those agencies made 80 inquiries to the driver's license database and 341 inquiries to the vehicle registration database.

To address this issue, the Legislature passed AB 1747 (Gonzalez, Chapter 589, Statutes of 2019), which limited the use of the state's telecommunications system containing criminal history information for immigration enforcement purposes, and for purposes of investigating immigration crimes solely because criminal history includes violation of federal immigration.

Additionally, like all applicants for a state-issued ID card, undocumented Californians seeking one of the new ID cards would have to present the DMV with satisfactory evidence demonstrating that they are who they say they are. In the case of someone applying for one of the ID cards authorized by this bill,

however, the file would include a tacit admission that the applicant is undocumented and therefore potentially subject to immigration detention and deportation at any time. AB 1766 contains privacy provisions, adding the newly authorized ID cards to the provisions for driver's licenses issued pursuant to AB 60, stating that information and documents provided to the DMV to prove identify or residency for the purpose of the ID card are not public records and shall not be disclosed by DMV except as required by law, or in response to a subpoena for individual records in a criminal proceeding or a court order, or in response to a law enforcement request to address an urgent health or safety need if the law enforcement agency certifies in writing the specific circumstances that do not permit authorities time to obtain a court order. AB 1766 further clarifies that immigration enforcement does not constitute an urgent health and safety need.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

- DMV indicates that one-time costs to implement this bill by 2027 are not quantifiable at this time because programming will be required on the department's modernized IT platform, which will not be complete until after the 2025-26 fiscal year. Staff estimates one-time costs, likely in the hundreds of thousands of dollars in 2026-27 to promulgate regulations, modify forms and publications, conduct training, and make necessary IT system programming on its modernized systems to implement the provisions of this bill. (Motor Vehicle Account)
- DMV estimates the following ongoing staffing costs (Motor Vehicle Account) to accommodate the anticipated volume of applications for modified ID cards in field offices:
  - \$8.6 million and 134.0 PY of staff to process approximately 280,000 applications in 2026-27 (1/2 year costs for first six months of 2024)
  - \$2.2 million and 21.0 PY of staff to process approximately 91,000 applications in 2027-28.
  - \$1.2 million and 11.5 PY of staff to process approximately 52,500 applications in 2028-29.
  - \$845,000 and 8.0 PY of staff to process approximately 39,000 applications in 2029-30 and 38,000 applications in 2030-31.
  - Approximately \$500,000 and 5.0 PY ongoing to process an estimated 25,000 applications annually thereafter.

(Staff notes that DMV staffing costs are likely to be fully offset by ID card application fee revenues. Applicants would be charge the regular \$33 fee, a reduced-fee of \$9, or no fee, as specified below. The bill authorizes DMV to charge an additional fee, as necessary, until 2030 to fully offset its administrative costs)

**SUPPORT:** (Verified 8/22/22)

ACLU California Action

Alianza

Alliance for a Better Community

Alliance of Californians for Community Empowerment Action

Asian Americans Advancing Justice – California

Asian Law Alliance

Bend the Arc: Jewish Action

Buen Vecino

California Coalition for Women Prisoners

California Federation of Teachers AFL-CIO

California Immigrant Policy Center

California Latinas for Reproductive Justice

California Religious Action Center of Reform Judaism

California Rural Legal Assistance Foundation

Catholic Charities of the Diocese of Santa Rosa

Central American Resource Center- Carecen- of California

Centro Community Hispanic Association

Chinese for Affirmative Action

Clinica Monsignor Oscar A. Romero

Coalition for Humane Immigrant Rights

Communities United for Restorative Youth Justice

Community Action Board of Santa Cruz County, Inc.

Community Clinic Association of Los Angeles County

Community Legal Services in East Palo Alto

County of Santa Clara

Courage California

Disability Rights California

Dolores Huerta Foundation

Drug Policy Alliance

Friends Committee on Legislation of California

Ice Out of Marin

Immigrant Defense Advocates

Immigrant Legal Resource Center



Indivisible CA Statestrong  
Indivisible Resisters Walnut Creek  
Indivisible San Francisco  
Indivisible San Jose  
Initiate Justice  
Jakara Movement  
Kids in Need of Defense  
Law Foundation of Silicon Valley  
Legal Aid Society of San Mateo County  
Legal Services for Children  
Long Beach Immigrant Rights Coalition  
National Association of Social Workers, California Chapter  
NorCal Resist  
Oasis Legal Services  
Orange County Equality Coalition  
Parent Voices San Francisco  
Pico California  
Pomona Economic Opportunity Center  
Public Counsel  
Public Law Center  
Rainbow Beginnings  
Root and Rebound  
San Diego Immigrant Rights Consortium  
Secure Justice  
Sister Warriors Freedom Coalition  
South Bay People Power  
Successful Reentry, LLC  
Thai Community Development Center  
The Young Women's Freedom Center  
Unite-la, Inc.  
Vision Y Compromiso

**OPPOSITION:** (Verified 8/22/22)

None received

**ASSEMBLY FLOOR:** 59-13, 5/26/22

**AYES:** Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner  
Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper,  
Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo  
Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra,

Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin,  
Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz  
Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting,  
Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon  
NOES: Bigelow, Chen, Megan Dahle, Fong, Gallagher, Kiley, Lackey, Nguyen,  
Patterson, Seyarto, Smith, Voepel, Waldron  
NO VOTE RECORDED: Berman, Choi, Davies, Flora, O'Donnell, Valladares

Prepared by: Katie Bonin / Melissa White/ TRANS./ (916) 651-4121  
8/26/22 15:36:15

\*\*\*\* END \*\*\*\*