

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1244

Bill Subtitle: TO AUTHORIZE THE ISSUANCE OF A DRIVER'S LICENSE OR AN IDENTIFICATION CARD WITHOUT A PHOTOGRAPH IN CERTAIN CIRCUMSTANCES.

Basic Change :

Sponsor: Rep. Haak

Under current law, a driver's license or identification card issued by the Department of Finance and Administration (DFA) must include a photograph of the licensee. Upon an applicant's request, DFA currently will issue a driver's license or identification card without a photograph of the licensee if DFA is advised that a photograph of the licensee is objectionable on the grounds of a sincerely-held religious belief. HB1244 would require an applicant seeking a license or identification card without a photograph to be 15 years of age or older and provide a completed Internal Revenue Service (IRS) Form 4029 or signed affidavit attesting to his or her sincerely-held religious belief that prohibits the individual from having his or her photograph taken. A license issued without a photograph of the licensee is not valid for federal identification purposes or for voter identification purposes.

HB1244 also requires the Office of Driver Services (ODS) of DFA, to clearly display on the face of a driver license or identification card the phrase "not valid for federal identification purposes or voter identification purposes" if the license or card is issued without a photograph. DFA currently prints "valid without photo" and "not for federal identification" on a license or card issued without a photograph.

HB1244 does not contain an effective date. Therefore, this bill would become effective 90 days following sine die adjournment.

Revenue Impact :

None.

Taxpayer Impact :

An applicant for a driver's license or identification card would be required to sign an affidavit or provide Internal Revenue Service Form 4029 attesting it is against his or her sincerely-held religious belief to be photographed. An applicant under the age of 15 could no longer obtain an Arkansas driver's license or identification card without a photo.

Resources Required :

Programming changes for HB1244 are at estimated \$44,000 and yearly ongoing estimated post production costs are estimated to be \$12,000.

Time Required :

An implementation date of January 1, 2022 is requested for programming purposes.

Procedural Changes :

ODS would update procedures to be shared with State Revenue Office employees to provide training

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on this new procedure.

Other Comments :

None.

Legal Analysis :

The 8th Circuit Court of Appeals has upheld a federal district court's order to a state requiring issuance of a driver's license without a photograph when the applicant, who was otherwise qualified to receive a driver's license, demonstrated that her refusal to be photographed was grounded upon a sincerely-held religious belief. *Quaring v. Peterson*, 728 F.2d 1121 (1984). However, no authority prevents the State of Arkansas from requiring that the applicant provide a completed IRS Form 4029 or a signed affidavit of his or her sincerely-held religious belief that prohibits the applicant from having his or her photograph taken before issuing a driver's license or identification card. The language of HB1244 provides clarity to DFA of the proof that must be provided for DFA to issue a driver's license or identification card without a photograph of the applicant.

The Real ID Act of 2005 does not permit a federal agency to accept a state-issued identification card unless the card contains, among other things, a digital photograph of the person. Pub.L. 109-13. Therefore, a driver's license or identification issued without a photograph of the applicant would not satisfy federal requirements for air travel. Further, under HB1244, a person could not use a driver's license or identification card without the applicant's photograph for voter identification purposes.