

Department of Finance and Administration

Amended Legislative Impact Statement

Bill: HB1429

Amendment Number: H1

Bill Subtitle: TO AMEND THE LAW CONCERNING THE ISSUANCE OF A DRIVER'S LICENSE TO CERTAIN APPLICANTS.

Basic Change :

Sponsors: Reps. J. Richardson, F. Allen, Clowney, K. Ferguson, L. Johnson, Magie, Scott, Vaught, Wardlaw, and Nicks; Sen. C. Tucker

HB1429 (engrossed H/22/23) amends § 27-16-1111 concerning the issuance of a driver's license (DL) for an applicant who is not a citizen of the United States. Under current law, § 27-16-1105, an applicant for a driver's license or identification card is required to present evidence of legal status to the Office of Driver Services, which is valid documentary evidence that the person:

- Is a citizen of the United States;
- Is an alien lawfully admitted for permanent or temporary residence in the United States;
- Has conditional permanent resident status in the United States;
- Has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;
- Has a pending or approved application for asylum in the United States;
- Has entered into the United States in refugee status;
- Has a pending or approved application for temporary protected status in the United States;
- Has approved deferred action status;
- Has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States;
- Has a pending extension Form I-129, Petition for a Nonimmigrant Worker or a pending Form I-539, Application to Extend/Change Nonimmigrant Status for dependents, as evidenced by a valid Form I-797C, Notice of Action; or
- Is a spouse or minor child as described.

Under current law, the Office of Driver Services may renew the license only if it is demonstrated that the applicant's continued presence in the U.S. is authorized under federal law.

HB1429 provides that if an applicant for a driver's license is unable to provide satisfactory evidence of legal residency status, the Office of Driver Services shall issue a driver's license if the applicant:

- Provides proof of identity with a passport issued by their country of citizenship;
- Meets all other DL issuance requirements;
- Provides a social security number or taxpayer identification number issued by the Internal Revenue Service;
- Provides proof of residence in the state; and
- Provides proof of authorization for presence in the U.S. or proof of having filed a state tax return for the three years prior to the applicant's date of application for issuance of a DL.

A DL issued to an applicant unable to provide satisfactory evidence of legal residency status shall clearly display that the DL is "Not valid for voter identification."

In addition to the cost of the issuance or renewal of a DL, an applicant or licensee who provides an

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individual tax identification number shall pay a fee of \$50.00, and the DL shall be issued for a period not to exceed four years.

The Office of Driver Services would have discretion to renew any license without proof of legal presence if the applicant provides proof of filing a state tax return for each year between the date of issuance and the year prior to the expiration of the driver's license.

The Office of Driver Services would be required to send the Secretary of State a quarterly file that includes identifying information of any licensee that received a driver's license without providing proof of legal presence that includes the name, date of birth, residential address, and mailing address.

Revenue Impact :

The licensee would be required to pay an additional \$50.00 fee to offset costs pertaining to the issuance process. The amount of additional fees that would be collected is unknown.

Taxpayer Impact :

A licensee this is unable to demonstrate lawful presence in the United States would be eligible to obtain an Arkansas driver's license provided that the requirements of HB1429 are met.

Resources Required :

The estimated cost for programming changes for the Arkansas Integrated Revenue System (AIRS) is \$136,000.00 and a yearly maintenance cost of \$8,000.00. The Office of Driver Services would require the following additional employees to process applications and renewal applications at an estimated annual salary cost of \$1,609,162:

- GS05 Positions – 20 DFA Local Revenue Office Supervisors
- GS06 Positions – 3 Hearing Officers
- GS09 Positions – 5 DFA Statewide Program Specialists
- GS10 Position – 1 Attorney
- GS11 Position – 1 DFA Statewide Program Coordinator

Time Required :

Additional time to implement these changes would be necessary. An implementation date of January 1, 2024, to complete program changes is recommended.

Procedural Changes :

The Office of Driver Services would have to update the issuance process for someone wishing to obtain a driver's license without proof of legal presence. Training materials would need to be created for Driver Services, State Revenue Offices, Law Enforcement, and Courts.

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Other Comments :

- This bill will require "not valid for voter identification" to display on the face of the license and be highlighted. When someone is issued a non-REAL ID "not for federal ID" must display on the front of the license. There is currently very limited space on the face of a driver's license to add additional text.
- Page 2, line 31: The bill does not specify that the applicant has to present an Arkansas tax return. The Office of Driver Services is unable to verify if a tax return is legitimate or not or was actually filed. This could cause issues with the Driver Services/Motor Vehicle systems needing to interact with the tax systems.
- Page 3, line 1: Adds an additional fee of \$50 but it does not state where the funds would be distributed. DFA would need these fees to offset some of the programming costs and additional employees needed.
- Page 3, line 16: DFA currently provides the Secretary of State a nightly file with all voter registration information. It is unclear why a quarterly file would be needed.
- The proposed bill changes the documents that qualify a person to apply for a license, but it does not remove the requirement to run a check through the Systematic Alien Verification for Entitlements (SAVE) system. Since a person that is not lawfully present in the U.S. would not have the allowable documents provided by SAVE, DFA would not get results from the Department of Homeland Security from the SAVE query.
- § 27-16-907 authorizes DFA to revoke a license issued to a person who is not lawfully present within the U.S. It is unclear the circumstances where DFA would continue to exercise its authority to revoke a license if a person is issued a license under HB1429 and the person is not lawfully present within the U.S.
- § 27-16-604(10) states that a person cannot be licensed if they are not lawfully within the U.S. HB1429 would not resolve this conflict in Arkansas law.
- § 27-16-604(13) states a person cannot be licensed without showing two primary documents or one primary and one secondary document. HB1429 would not resolve this conflict in Arkansas law.
- HB1429 does not specifically mention it prohibits the issuance of a commercial driver's license or commercial learner's permit to a person who is not lawfully present within the United States.

Legal Analysis :

HB1429 would benefit from an amendment permitting rather than requiring the Department of Finance and Administration to promulgate a rule if necessary.

HB1429 contains the following drafting error: Page 2, line 22, the word "county" should be changed to "country."