

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2021-2022 Regular Session**

AB 1766 (Stone)  
Version: May 19, 2022  
Hearing Date: June 28, 2022  
Fiscal: Yes  
Urgency: No  
TSG

**SUBJECT**

Department of Motor Vehicles: identification cards

**DIGEST**

This bill directs the Department of Motor Vehicles (DMV) to issue a modified California identification card, to an undocumented immigrant, if the person is eligible for a California identification card in all other respects.

**EXECUTIVE SUMMARY**

Government-issued identification documents are critical for an enormous variety of life functions. In California, there are two main types of state-issued identification that U.S. citizens and documented immigrants can obtain: a driver's license or, for those who cannot or do not want to drive, a state identification card. In 2013, California made a slightly modified version of its driver's licenses available to undocumented immigrants who qualified for a standard California driver's license in every way except for their immigration status. While this gave undocumented drivers access to a form of state-issued identification, it left out undocumented people who, for a variety of reasons including age, disability, or difficulty passing the necessary exams, cannot drive. This bill fills that gap by directing the DMV to issue slightly modified California identification cards to anyone otherwise eligible for the existing California identification cards, but for their immigration status. The bill also authorizes the use of these slightly modified identification cards for a variety of official purposes, but mandates that the card carry notification that it does not establish eligibility for employment, voter registration, or public benefits.

The bill is sponsored by Asian Americans Advancing Justice – California, California Immigrant Policy Center, Coalition for Humane Immigrant Rights, and the Immigrant Legal Resource Center. Support comes from a broad array of civil and immigrants' rights advocates. There is no known opposition. The bill passed out of the Senate Transportation Committee by a vote of 11-2. If the bill passes out of this Committee, it will next be heard in the Senate Appropriations Committee.

**PROPOSED CHANGES TO THE LAW**

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. (Veh. Code § 12801.9 (a)(1).)
- 2) Prohibits the DMV from disclosing information submitted to the department 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. (Veh. Code § 12800.7.)
- 3) Makes it unlawful to discriminate against a person because the person holds or presents a license issued under specified sections of the Vehicle Code. (Vehicle Code Section 12801.9 (h).)

This bill:

- 1) Requires the DMV to issue restricted identification cards to eligible applicants who are unable to verify their legal presence in the United States as authorized under federal law, commencing no later than January 1, 2024.
- 2) Establishes that information collected pursuant to this section is not a public record and shall not be disclosed by the department, except where necessary to comply with an order, warrant, or subpoena, each if issued by a court.
- 3) Establishes that documents provided by applicants to prove identity or residency pursuant to the provisions of this bill are not public record and shall not be disclosed except where necessary to comply with an order, warrant, or subpoena, each if issued by a court.
- 4) Requires identification cards to include a recognizable feature on the front of card, such as the letters "IC" instead of, and in the same font size as the letters "ID."
- 5) Requires identification cards to bear the following notice: "This card is not acceptable for official federal purposes. It does not establish eligibility for employment, voter registration, or public benefits."

- 6) Prohibits discrimination against a person because the person holds or presents an identification card issued under the provisions of this bill.
- 7) Prohibits the use of an identification card issued under the provisions of this bill from being used as evidence of an individual's citizenship or immigration status for any purpose.

### COMMENTS

#### 1. The importance of state-issued identification documents in life

Government-issued identification documents play a central role in life. They offer proof of both the carrier's identity and age. That proof enables the carrier to do an enormous variety of things, ranging from the sophisticated, like opening bank accounts, obtaining prescription medicines, or getting documents notarized, to the mundane, such as attending R-rated movies or purchasing a forty of Mickey's.

Possession of one form of state-issued identification is also often a prerequisite for obtaining other types of government-issued documents. For example, in order to get a passport, the applicant must present government-issued photo identification.

#### 2. State-issued identification cards are not available to undocumented Californians who cannot drive

Californians who are U.S. citizens or who are immigrants with a legally recognized basis for residing in the country, can obtain either of the two types of state-issued identity documents from the DMV: a driver's license or a state-issued identification card that officially confirms the carrier's age and identity, but does not confer the privilege of operating a motor vehicle in public.

Since 2013, the DMV has also issued a slightly modified driver's license to undocumented residents who qualify for a driver's license in all other respects. These modified driver's licenses are the only type of identification card that the DMV issues to undocumented individuals. In other words, driver's licenses are currently the only option for undocumented Californians to obtain a state-issued identification card. As a result, under current law, undocumented residents who cannot get a driver's license are excluded from obtaining a state-issued identification card altogether.

#### 3. The bill makes a state-issued identification card available to undocumented individuals who either do not want or cannot get a driver's license

This bill would give undocumented Californians the option of obtaining a slightly modified state identification card instead of a driver's license.

To apply successfully for a drivers' license in California, a resident must be at least 16 years old for a provisional license, and at least 18 years old for a regular license. The applicant must first pass a written exam about California traffic laws and the safe handling of motor vehicles. Then, the applicant has to pass a driving test.

As is the case with U.S. citizens and documented immigrants, there are probably a number of undocumented Californians who would be eligible to obtain one of the slightly modified driver's license offered by the DMV but who neither want nor need to drive and would prefer not to go through the hassle involved. This bill would allow these individuals to obtain a state-issued identification card without having to go through all the driving-related tests to get it.

Even more compellingly, there are many undocumented Californians who could not complete the requirements for obtaining a driver's license even if they wanted to. These include people who are not yet old enough to drive, people whose disabilities prevent them from being able to drive, and people who cannot take the driving test due to incarceration or lack of access to an automobile they can use for that purpose. All of these people - the author of this bill estimates that there might be as many as 1.6 million of them - are currently excluded from obtaining a state-issued identification card altogether. By opening up the alternative of simply obtaining an identification card that does not confer any driving privileges, this bill would newly give all of these individuals access to the possibility of obtaining a state-issued identification card.

As should be clear from the foregoing, California's current failure to provide this alternative to undocumented people who cannot drive has a discriminatory effect. Not only does it conflict with California values, expressed repeatedly in recent legislation, by treating undocumented Californians as inferior to other Californians, it also discriminates against people with disabilities that prevent them from being able to drive by inhibiting them from obtaining state-issued identification.

#### 4. Ensuring the privacy of documents used to support the identification card application

Like all applicants for a state-issued identification card, undocumented Californians seeking one of the slightly modified identification 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 slightly modified cards, 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. In these and other scenarios in which Californians' privacy is particularly vital, the Legislature has developed and typically inserts language meant to balance that privacy interest with legitimate law enforcement concerns. Those provisions generally state that the records in question "are not public records and shall not be disclosed except as necessary to comply with an order, warrant, or subpoena, issued by a court." The author uses the

same language in relation to the documentation that an applicant for one of these slightly modified identification cards might submit to the DMV. As belt and suspenders privacy protections, the bill also directs DMV not to maintain copies of these documents for longer than is necessary to ascertain their validity and authenticity.

5. Arguments in support of the bill

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. [...] 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.

As one of the sponsors of the bill, the California Immigrant Policy Center writes:

In particular, women, elders, and people with disabilities – both documented and undocumented– are disproportionately impacted by the inability to obtain an AB 60 driver’s license. Women within a household are less likely to have access to a car than their male counterparts. People with mobility issues, disabilities such as epilepsy, and elders who develop degenerative eyes, muscular, or cognitive diseases are unable to obtain driver’s licenses and thus, do not have any access to state government-issued IDs.

In support of the bill, the Immigrant Legal Resource Center writes:

This bill will make it so that all Californians, without exception, will have access to some form of state-issued photo ID, which is critical to fully participate in our communities. Identification cards enable inclusion and meaningful participation in our neighborhoods, cities, and our state. IDs allow a person to open a bank account, obtain a marriage license, access healthcare, secure housing, volunteer at their child’s school, and much more. A standardized ID also makes it easier for law enforcement to verify identity, and makes people feel safer approaching the police to report crime. The most marginalized in California cannot get driver’s licenses – those who do not have a car, or a car that could pass inspection; those who do not have car insurance; those who

have a medical condition that prevents them from driving; or those who do not know how to drive. They all remain unable to access a CA government-issued photo ID. AB 1766 would solve this problem.

### SUPPORT

Asian Americans Advancing Justice – California (sponsor)

California Immigrant Policy Center (sponsor)

Coalition for Humane Immigrant Rights (sponsor)

Immigrant Legal Resource Center (sponsor)

Alianza

Alliance for a Better Community

Alliance of Californians for Community Empowerment

Asian Law Alliance

Bend the Arc: Jewish Action

Buen Vecino

California Coalition for Women Prisoners

California Federation of Teachers, AFL-CIO

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 of California

Centro Community Hispanic Association

Chinese for Affirmative Action

Clinica Monsignor Oscar A. Romero

Communities United for Restorative Youth Justice

Community Action Board of Santa Cruz County

Community Clinic Association of Los Angeles County

Community Legal Services in East Palo Alto

Courage California

Disability Rights California

Dolores Huerta Foundation

Drug Policy Alliance

Friends Committee on Legislation of California

ICE Out of Marin

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  
NorCal Resist  
Oasis Legal Services  
Orange County Equality Coalition  
Parent Voice San Francisco  
PICO California  
Pomona Economic Opportunity Center  
Public Counsel  
Public Law Center  
Rainbow Beginnings  
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  
Vision Y Compromiso

### **OPPOSITION**

None known

### **RELATED LEGISLATION**

Pending Legislation: AB 2847 (E. Garcia, 2022) would establish a one year pilot program making unemployment insurance benefits available to the undocumented workers who currently pay into the system, but are ineligible to receive anything in return. AB 2847 is set to be heard in this Committee on the same day as this bill.

Prior Legislation:

AB 629 (Roth, Ch. 645, Stats. 2021) changed the eligibility criteria for a state prison inmate to be issued a state identification card upon release. The bill enabled undocumented people who are incarcerated and who need to renew their AB 60 driver's licenses to receive that identification card prior to leaving prison.

AB 60 (Alejo, 2013) allowed undocumented Californians to obtain a slightly modified driver's license if they qualified for a license in all other respects apart from immigration status.

SB 976 (Alquist, Ch. 820, Stats. 1993) required every applicant for a driver's license or identification card to produce documentation establishing citizenship or residence status, thus prohibiting undocumented people from obtaining a driver's license or identification card.

**PRIOR VOTES:**

Senate Transportation Committee (Ayes 11, Noes 2)

Assembly Floor (Ayes 59, Noes 13)

Assembly Appropriations Committee (Ayes 12, Noes 2)

Assembly Judiciary Committee (Ayes 8, Noes 0)

Assembly Transportation Committee (Ayes 11, Noes 3)

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