



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WASDEN

February 15, 2022

Honorable Brandon Mitchell
Idaho State Representative
P.O. Box 83720
Boise, Idaho 83720-0038

Re: HB527 and Issuance of Licenses

Delivered via E-Mail

Dear Representative Mitchell:

This opinion is in response to your inquiry as to whether HB527 limits driver's licenses and identification cards only to citizens.

Short Answer:

HB527 does not limit driver's licenses and identification cards to citizens *per se*, rather HB527 acknowledges and complies with other preexisting statutes which do limit the issuance of driver's licenses and identification cards to citizens. HB527 predicates its requirement that an applicant provide proof of citizenship status on Idaho Codes §§49-301, 49-302, 49-303, and 49-2443. Consequently, because a statute must be read within the context of other statutes, HB527 does not prohibit the issuance of driver's licenses and identification cards to non-citizens.

Analysis:

1) Statutory Background

The draft version of HB527 states, "The [driver's license] applicant must submit proof of identity and citizenship status acceptable to the examiner or the department and date of birth as set forth in a certified copy of his birth certificate." (HB527, page 3, lines 30-32/I.C. §49-306((3)(d)). Likewise, the draft version of HB527 treats the issuance of identification cards the same: "The applicant for an identification card must submit proof of identity and citizenship status acceptable to the examiner or the department and date of birth as set forth in a certified copy of his birth certificate." (HB527, page 11, lines 1-4/I.C. §49-2444(6)).

At first, it may seem that HB527 restricts the issuance of driver's licenses and identification cards to citizens. But, HB527 relies upon Idaho Code §§49-301, 49-302, 49-303, and 49-2443 in determining who may or may not receive a driver's license or identification card.

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Idaho Code §49-301 identifies individuals who may be licensed. To summarize, §49-301 provides that no one may drive any motor vehicle unless they have a current and valid Idaho driver's license.

Idaho Code §49-302 lists persons who are exempt from having to have a current and valid Idaho driver's license. This statute recognizes non-Idaho citizens who have a current and valid driver's license issued from other states, valid driver's permits, those involved with agriculture, out of state active duty military personnel, etc.

Idaho Code §49-303, however, expressly prohibits driver's licenses from being issued to a person who is not a resident of the state of Idaho or who is not lawfully present in the United States. *See* I.C. §49-303(13) and (14).

Idaho Code §49-2443 deals with the issuance of identification cards. Specifically, I.C. §49-2443 states that an applicant for an identification card must submit their social security number, or if no social security number has been issued, then submit "such proof as the department may require that the applicant is lawfully present in the United States." *See* I.C. §49-2443(6)(b)(iii).

Accordingly, Idaho Code §§49-301, 49-302, 49-303, and 49-2444 establish that only persons who are residents of the state of Idaho and lawfully present in the United States may be issued an Idaho driver's license or identification card.

2) Effect of HB527

While the current draft of HB527 requires someone who is applying for a driver's license or identification card to "...submit proof of identity and citizenship status acceptable to the examiner or the department...", (HB527, page 3, lines 30-32/I.C. §49-306((3)(d)), it does so in compliance with the aforementioned statutes.

Conclusion:

HB527 does not - in of itself - prevent any individual from obtaining a driver's license or identification card who is not already prohibited from doing so. Rather, HB527 relies on Idaho Code §§49-301, 49-302, 49-303, and 49-2443 in identifying who may or may not receive an Idaho driver's license or identification card. It appears that the proposed modifications to HB527 are to ensure consistency with the aforementioned statutes.

Sincerely,

Richard M Hart

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Idaho Transportation Department