



HOUSE BILL 328: Highway Safety/Citizens Protection A

This Bill Analysis reflects the contents of the bill as it was presented in committee.

2015-2016 General Assembly

Committee:	House Judiciary I, if favorable, Finance	Date:	April 14, 2015
Introduced by:	Reps. Warren, B. Brown, Collins, Jordan	Prepared by:	R. Erika Churchill
Analysis of:	PCS to First Edition H328-CSSTf-19		Committee Counsel

SUMMARY: *The proposed committee substitute for House Bill 328 would increase penalties for certain offenses involving the manufacture or sale of a false or fraudulent form of identification, disallow the use of certain documents in determining a person's actual identity or residency, provide for the issuance of a restricted drivers permit or a restricted identification card to a person not lawfully present in the United States, and provide a procedure for the seizure, impoundment and forfeiture of a motor vehicle for driving while license revoked, driving without a license or without a restricted drivers permit, and driving while failing to maintain financial responsibility.*

BILL ANALYSIS: **Section 2(a)** of the PCS would increase the penalty for the manufacture or sale of a false or fraudulent form of identification from a Class 1 misdemeanor to a Class G felony; however, simple possession of a false or fraudulent form of identification would still be punishable as a Class 1 misdemeanor as would any violation by a person under age 21 for the purpose of purchasing alcohol and any violation by a person under age 18 for the purpose of purchasing tobacco or related products. **Section 2(b)** would expand the law pertaining to the unauthorized possession or use of drivers licenses, learner's permits, or special identification cards to include restricted drivers permits issuable to persons not lawfully present in the US. It would be a Class G felony to sell or offer for sale a counterfeit drivers license, restricted drivers permit, learner's permit, or special identification card and any other violation involving a DMV-issued license, permit, or identification, except for offenses committed by persons under age 21 for the purpose of purchasing alcohol.(Class 1 misdemeanor) and offenses committed by a person under age 18 for the purpose of purchasing tobacco or related products (Class 2 misdemeanor).

Section 3: would create a rebuttable presumption against the pretrial release of any person unlawfully present in the US and reasonably believed to have committed a sex offense, a violent felony, a driving offense, a drug offense, or a gang offense. The rebuttable presumption would also apply if the US Immigration and Customs Enforcement (ICE) has guaranteed that it will issue a detainer for the initiation of removal proceedings. A person could only be released by a judge finding reasonable assurance that the person would appear and that release would not pose an unreasonable risk of harm to the community.

Section 4: would codify the methods by which a person's immigration status may be verified and the uses of that verification in court.

Section 5: specifies that documents issued by a consulate or embassy of another country, or any other identity document not expressly authorized by the General Assembly, would not be acceptable for use by officers of the court, law enforcement, or other government officials in determining a person's actual identity or residency, including use of such documents for purposes of obtaining a drivers license, insurance, or social services.

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Section 6: would provide for the issuance of a restricted drivers permit or a restricted identification card to a person not lawfully present in the US. The applicant would be required to agree to a criminal history check that would include the taking of fingerprints. A restricted drivers permit or a restricted identification card would be valid for a period of one year, and would bear distinctive formatting and markings, including a thumbprint and a statement that the permit or card is not valid for other purposes such as voter registration or public benefits. A restricted drivers permit would be subject to revocation for operating a motor vehicle without financial responsibility.

Section 7: would provide a procedure for the seizure, impoundment and forfeiture of a motor vehicle for driving while license revoked, driving without a license or without a restricted drivers permit, and driving while failing to maintain financial responsibility.

EFFECTIVE DATE: Provisions related to the increase in criminal penalties and impoundment of vehicles would become effective December 1, 2015. Provisions related to the issuance of restricted drivers permits and restricted identification cards would become effective October 1, 2015. Remaining provisions of the bill would become effective when it becomes law