



# HOUSE BILL 328: Highway Safety/Citizens Protection Act

2015-2016 General Assembly

|                       |   |                     |                   |
|-----------------------|---|---------------------|-------------------|
| <b>Committee:</b>     | House Finance                           | <b>Date:</b>        | June 9, 2015      |
| <b>Introduced by:</b> | Reps. Warren, B. Brown, Collins, Jordan | <b>Prepared by:</b> | Trina Griffin     |
| <b>Analysis of:</b>   | PCS to Second Edition<br>H328-CSSVf-23  |                     | 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 (1) driving while license revoked if the person's license was originally revoked for an impaired driving license revocation, or (2) driving without a restricted drivers permit unless the person possesses an expired permit.*

### 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. **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 increase from a Class 2 misdemeanor to a Class G felony the penalty for counterfeiting, selling, lending to, or knowingly permitting the use of by one not entitled to a drivers license, restricted drivers permit, learner's permit, or special identification card. It would also increase from a Class I felony to a Class G felony the penalty for selling or offering to sell any reproduction or facsimile of any of these forms of identification. **Section 2(c)** repeals the statute providing criminal penalties for the fraudulent use of a special identification card. This statute is not needed because those provisions are covered under G.S. 20-30. **Section 2(d)** corrects an inaccurate citation.

**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

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identity or residency, including use of such documents for purposes of obtaining a drivers license, insurance, or social services.

**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.

The fee for the initial one-year restricted drivers permit and the renewal fee would be set by the Secretary of Transportation in an amount to cover the cost to implement, process, and furnish the permits, up to a maximum of \$200.

The fee for the initial one-year restricted identification card would be set by the Secretary of Transportation in an amount to cover the cost of processing the application and furnishing the card. The renewal fee would be set at \$25.00.

**Section 7** would provide a procedure for the seizure, impoundment and forfeiture of a motor vehicle for two new offenses:

- Driving while license revoked if the person's license was originally revoked for an impaired driving license revocation.
- Driving without a restricted drivers permit unless the person possesses an expired restricted permit.

**EFFECTIVE DATE:** Provisions related to the increase in criminal penalties become effective December 1, 2015. Provisions related to the issuance of restricted drivers permits and restricted identification cards would become effective March 1, 2016. The provisions regarding the seizure, impoundment, and forfeiture of vehicles would become effective June 1, 2016, and would apply to offenses committed on or after that date. The remainder of the bill would become effective when it becomes law.

*Erika Churchill, counsel to House Judiciary I, substantially contributed to this summary.*