

DATE: January 19, 2010

TO: All Legislators

FROM: Representative Pedro Colón

RE: Co-sponsorship of LRB-3677/1 relating to: the issuance of driver cards and driver card instruction permits by the Department of Transportation, requiring the exercise of rule-making authority, and making an appropriation.

I am introducing legislation to create a driving card that may be issued to a person who does not provide documentary proof of legal status but who is otherwise qualified for a driver's license. Under the federal REAL ID Act, states can choose to implement an alternative driving certificate. The Act states that these certificates shall be different in color or design from a regular license and should be indicated on its face that the license may not be accepted by any federal agency, federal identification, or other official purposes. A driving card will expire two years from the date of the applicants next birthday after the date of issuance.

In addition, no law enforcement officer, state agent, or local authority may use the driver card as a basis to inquire about the immigration status of an individual who lawfully presents the card for its intended purpose. This proposal also includes that no insurer may cancel or refuse to issue or renew an automobile insurance policy because the policy holder holds a driver card issued under these provisions. This provision would take effect on the first day of the sixth month beginning after the bill's general effective date.

Supporters of the legislation included: the Dairy Business Association, the Wisconsin State Troopers Association, Milwaukee Police Chief Flynn, and Madison Police Chief Wray.

**The requirements to be eligible for a driving card are the following:**

- The applicant's driving privilege is not suspended or revoked in Wisconsin or in any other jurisdiction
- The applicant successfully passes driving skills, knowledge, and eyesight examinations and meets current law minimum age qualifications for obtaining a driver's license
- **Documented** applicants who do not qualify for a US Social Security Number, but can show proof of legal presence. The driving card would expire on their birth date, 2 years from the date of issuance or on the expiration date of their legal presence document, whichever is sooner.
- **Undocumented** applicants, who do not qualify for a US Social Security Number, must obtain an Individual Tax

Identification Number (ITIN) from the Internal Revenue Service.

- Applicants must reside in the state of Wisconsin for a period of six months or more.
- The applicant pays the applicable license fee which is the same as the WI driver's license: \$28 dollars.
- Requirements to obtain a regular Wisconsin driver's license should apply to all.

If you are interested in co-sponsoring this bill, please contact my office at **7-7669** by **January 29, 2009**.

The LRB analysis is below:

***Analysis by the Legislative Reference Bureau***

Under current law, as a result of 2005 Wisconsin Act 126, an applicant for an operator's license or identification card must present documentary proof that the person is either a United States citizen or legally present in the United States. The Department of Transportation (DOT) may not issue an operator's license to an applicant who has not provided this documentary proof of citizenship or legal presence. If documentary proof provided by a noncitizen includes an end date for the person's authorized legal presence in the United States, an operator's license or identification card issued to the person must expire no later than the date on which the person's authorization to be legally present in the United States ends.

Under current federal law, the REAL ID Act of 2005 (REAL ID Act) prohibits a federal agency from accepting for any "official purpose," including boarding commercial aircraft and entering federal buildings, an operator's license or identification card issued by a state unless the state satisfies requirements Wisconsin Act 126 and as established under 2007 Wisconsin Act 20 after implementation of REAL ID) that they are either United States citizens or legally present in the United States; 6) provide valid individual taxpayer identification numbers; and 7) are not eligible for social security numbers. The document storage and verification requirements imposed for operator's license applicants after the implementation of REAL ID may not be imposed for driver card applicants. Unlike other operator's license applicants between the ages of 18 and 26, DOT does not forward a driver card applicant's information to the selective service system. Driver cards must be labeled as such and must clearly state on their face that they may not be accepted by any federal agency for federal identification or any other official purpose. Driver cards must also have a unique design or color indicator that clearly distinguishes them from other operator's licenses or identification cards issued by DOT and that alerts federal authorities that they are not REAL ID compliant. A driver card is issued for a two-year period and must be renewed every two years thereafter. The fee for issuance and renewal of a driver card is the same

as that applicable to other operator's licenses, although the valid period is shorter. DOT must also issue driver card instruction permits to persons who are at least 15 and one-half years old, who have passed any knowledge test required by DOT, and who, except for age or lack of training, are qualified to obtain a driver card. The operating restrictions for driver card instruction permits are similar to those applicable to other instruction permits.

DOT must promulgate rules specifying the standards for the issuance of driver cards and driver card instruction permits, including standards for proof of residency and proof of identification.

A law enforcement officer, state agent, or local authority may not use a driver card or driver card instruction permit as a basis to inquire about the immigration status of an individual who lawfully presents the driver card or driver card instruction permit for its intended purpose. An insurer may not cancel or refuse to issue or renew an automobile insurance policy because the person has been issued a driver card or driver card instruction permit.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.