Verifying Lawful Presence in U.S. in Order to Get Public Benefits

This Act requires people 18 years or older to prove they are lawfully present in the United States before such people can get certain public benefits. They can do this by providing:

- a state driver’s license or state identification card; or
- a valid driver’s license or similar document issued for the purpose of identification by another state or territory of the United States, if such license or document contains a photograph or the individual or such other personal identifying information relating to the individual that the director of the department of health and welfare or, with regard to unemployment compensation benefits, the director of the department of commerce and labor finds, by rule, sufficient for purposes of this section; or
- a United States Military Card or A Military Dependent’s Identification Card; or
- a United States Coast Guard Merchant Mariner Card; or
- a Native American Tribal Document;
- a valid United States Passport; and
- a valid Social Security Number that has been assigned to the applicant; and
- attest, under penalty of perjury and on a form designated or established by the director of the state department of health and welfare or, with regard to unemployment compensation benefits, by the director of the state department of commerce and labor, that the applicant is a United States citizen or legal permanent resident or the applicant is otherwise lawfully present in the United States pursuant to federal law.

Submitted as:
Idaho
Chapter 311
Status: Enacted into law in 2007.

Suggested State Legislation

(Title, enacting clause, etc.)

Section 1. [Short Title.] This Act shall be cited as “An Act to Require People to be Lawfully Present in the United States to Get Certain Public Benefits.”

Section 2. [Legislative Findings.]
(1) The [Legislature] hereby finds and declares that it is the public policy of this state that people [eighteen (18) years of age or older] shall provide proof that they are lawfully present in the United States prior to receiving certain public benefits.
(2) The intent of the [Legislature] is not to regulate immigration but to control public expenditures for certain public benefits, not inconsistent with federal law.

Section 3. [Definitions.] As used in this Act:
(1) “emergency medical condition” shall have the same meaning as provided in 42 U.S.C. Section 1396b(v)(3).
(2) “federal public benefit” shall have the same meaning as provided in 8 U.S.C. Section 1611(c).
Section 4. [Verification of Lawful Presence: Exceptions, Reporting.]

(1) Except as otherwise provided in subsection (3) of this section or where exempted by federal law, each agency or political subdivision of this state shall verify the lawful presence in the United States of each natural person [eighteen (18) years of age or older] who applies for state or local public benefits or for federal public benefits for the applicant.

(2) This section shall be enforced without regard to race, religion, gender, ethnicity or national origin.

(3) Verification of lawful presence in the United States shall not be required:

(a) for any purpose for which lawful presence in the United States is not required by law, ordinance or rule;

(b) for obtaining health care items and services that are necessary for the treatment of an emergency medical condition of the person involved and are not related to an organ transplant procedure;

(c) for short-term, noncash, in-kind emergency disaster relief;

(d) for public health assistance for immunizations with respect to immunizable diseases and testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease;

(e) for programs, services or assistance, such as soup kitchens, crisis counseling and intervention and short-term shelter specified by federal law or regulation that:

   (i) deliver in-kind services at the community level, including services through public or private nonprofit agencies;

   (ii) do not condition the provision of assistance, the amount of assistance provided or the cost of assistance provided on the individual recipient’s income or resources; and

   (iii) are necessary for the protection of life or public safety;

(f) for prenatal care; or

(g) For postnatal care not to [exceed twelve (12)] months.

(4) An agency or a political subdivision shall verify the lawful presence in the United States of each applicant [eighteen (18) years of age or older] for federal public benefits or state or local public benefits by requiring the applicant to produce:

(a) (i) a [state] driver’s license or an [state] identification card issued pursuant to [insert citation]; or

(ii) a valid driver’s license or similar document issued for the purpose of identification by another state or territory of the United States, if such license or document contains a photograph of the individual or such other personal identifying information relating to the individual that the [director of the department of health and welfare] or, with regard to unemployment compensation benefits, the [director of the department of commerce and labor] finds, by rule, sufficient for purposes of this section; or

(iii) a United States Military Card or a Military Dependent’s Identification Card;

(iv) a United States Coast Guard Merchant Mariner Card;

(v) a Native American Tribal Document;

(vi) a valid United States Passport; or

(vii) a valid Social Security Number that has been assigned to the applicant; and
(b) attest, under penalty of perjury and on a form designated or established by the
[director of the department of health and welfare] or, with regard to unemployment compensation
benefits, by the [director of the department of commerce and labor], that:

   (i) the applicant is a United States citizen or legal permanent resident; or

   (ii) the applicant is otherwise lawfully present in the United States pursuant
to federal law.

(5) Notwithstanding the requirements of subsection (4)(a) of this section, the [director of
the department of health and welfare] or, with regard to unemployment compensation benefits, the
[director of the department of commerce and labor] may promulgate such rules as are necessary to
ensure that certain people lawfully present in the United States receive authorized benefits
including, but not limited to, homeless state citizens.

(6) For an applicant who has attested pursuant to subsection (4)(b) of this section stating
that the applicant is an alien lawfully present in the United States, verification of lawful presence
for federal public benefits or state or local public benefits shall be made through the federal
Systematic Alien Verification of Entitlement Program, which may be referred to as the “SAVE”
program, operated by the United States Department of Homeland Security or a successor program
designated by the United States Department of Homeland Security. Until such verification of
lawful presence is made, the attestation may be presumed to be proof of lawful presence for
purposes of this section.

   (a) Errors and significant delays by the SAVE program shall be reported to the
United States Department of Homeland Security to ensure that the application of the SAVE
program is not wrongfully denying benefits to legal residents of this state.

   (b) Agencies or political subdivisions may adopt variations of the requirements of
subsection (4)(b) of this section to improve efficiency or reduce delay in the verification process
or to provide for adjudication of unique individual circumstances in which the verification
procedures in this section would impose unusual hardship on a legal resident of this state; except
that the variations shall be no less stringent than the requirements of subsection (4)(b) of this
section.

   (c) A person who knowingly makes a false, fictitious or fraudulent statement or
representation in an attestation executed pursuant to subsection (4)(b) or (6)(b) of this section shall
be guilty of a [misdemeanor].

(7) It shall be unlawful for an agency or a political subdivision of this state to provide a
federal public benefit or a state or local public benefit in violation of this section.

Section 5. [Severability.] [Insert severability clause.]

Section 6. [Repealer.] [Insert repealer clause.]

Section 7. [Effective Date.] [Insert effective date.]