House Bill 400
By: Representatives Jones of the 167th, Powell of the 32nd, Ridley of the 6th, Jasperse of the 11th, Hitchens of the 161st, and others

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 21-2-417 of the Official Code of Georgia Annotated, relating to presentation of identification to poll workers, form of proper identification, swearing of statement when unable to produce proper identification, provisional ballots for those, and penalty for false statement under oath, so as to provide that certain driver's licenses and identification cards shall not be proper identification for presentation to a poll worker; to amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to clarify and provide for persons who may obtain certain licenses, permits, or cards; to define a term relative to lawful immigration status of a person; to provide for driver's licenses for persons who possess Employment Authorization Documents from the United States Citizenship and Immigration Services with certain codes thereon which shall operate the same as driver's licenses; to provide for exceptions; to provide for the design of certain drivers' licenses; to provide for special identification cards for persons who possess Employment Authorization Documents from the United States Citizenship and Immigration Services with certain codes thereon; to provide for the design of such special identification cards; to provide for penalties; to require participation of the Department of Driver Services in the Records and Information from DMVs for E-Verify (RIDE) program of the United States Department of Homeland Security; to provide for a short title; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
This Act may be known and cited as the "Driver's License, ID Credential, and Voter Security Reform Act."

SECTION 2.
Code Section 21-2-417 of the Official Code of Georgia Annotated, relating to presentation of identification to poll workers, form of proper identification, swearing of statement when...
unable to produce proper identification, provisional ballots for those, and penalty for false 
statement under oath, is amended by revising subsection (a) as follows:

*(a)(1) Except as provided in subsection (c) of this Code section, each elector shall 
present proper identification to a poll worker at or prior to completion of a voter's 
certificate at any polling place and prior to such person's admission to the enclosed space 
at such polling place.

(2) Proper identification required under paragraph (1) of this subsection shall consist:

(A) Consist of any one of the following:

(i) A Georgia driver's license which was properly issued by the appropriate state 
   agency, except as provided for under subparagraph (B) of this paragraph;

(ii) A valid Georgia voter identification card issued under Code Section 
    21-2-417.1 or other valid identification card issued by a branch, department, agency, 
    or entity of the State of Georgia, any other state, or the United States authorized by 
    law to issue personal identification, provided that such identification card contains a 
    photograph of the elector, except as provided for under subparagraph (B) of this 
    paragraph;

(iii) A valid United States passport;

(iv) A valid employee identification card containing a photograph of the elector 
    and issued by any branch, department, agency, or entity of the United States 
    government, this state, or any county, municipality, board, authority, or other entity 
    of this state;

(v) A valid United States military identification card, provided that such 
    identification card contains a photograph of the elector; or

(vi) A valid tribal identification card containing a photograph of the elector; and

(B) Not consist of a driver's license or identification card as provided for under 
subsection (a.1) of Code Section 40-5-20 or subsection (d) of Code Section 40-5-21.1.*

SECTION 3.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is 
amended by adding a new paragraph to Code Section 40-5-1, relating to definitions, to read 
as follows:

"(19) 'Unlawful immigration status EAD code' means a code placed on such Employment 
Authorization Document that indicates such person is not present in the United States 
under a lawful immigration status."
Said title is further amended by adding new subsections to Code Section 40-5-20, relating to license required, surrender of prior licenses, and local licenses prohibited, to read as follows:

"(a.1)(1) Except as provided for in subsection (a.2) of this Code section, any person possessing an Employment Authorization Document from the United States Citizenship and Immigration Services with an unlawful immigration status EAD code shall obtain a driver's license as provided for in this subsection before operating a motor vehicle in this state. Pursuant to the terms of this subsection, upon payment of the required fee, the department shall issue to every applicant qualifying therefor a driver's license as provided for in this subsection indicating the type or general class of vehicle the applicant may drive. Notwithstanding any other provision of this title and except as otherwise provided for in this subsection, such driver's license shall:

(A) In every way operate in like manner for types or classes of vehicles as a United States citizen's driver's license, including but not limited to fees, instructional permits, training, examinations, expirations, restrictions, points, issuances, renewals, and replacements, as if a citizen's driver's license;

(B) Be subject to the same carrying, exhibition, reporting, and motor vehicle insurance requirements as a citizen's driver's license;

(C) Confer the same privileges and responsibilities for driving a motor vehicle upon a highway in this state as a citizen's driver's license; and

(D) Be subject to the same laws and penalties in the law, including but not limited to suspension or revocation, in the same manner as a citizen's driver's license.

(2) A driver's license as provided for in this subsection shall be valid only during the period of time of the applicant's having a valid and current Employment Authorization Document from the United States Citizenship and Immigration Services with a code thereon that is not an unlawful immigration status EAD code or five years, whichever occurs first; provided, however, that such applicant shall notify the department within ten days after any change in an EAD code.

(3) Prior to the issuance of a driver's license as provided for in this subsection, the department shall obtain the fingerprints of the applicant.

(4)(A) In accordance with the REAL ID Act of 2005, 8 U.S.C. Section 1101 et seq., the department shall distinguish a driver's license as provided for in this subsection from other drivers' licenses issued by the department by the use of a unique design and color.

(B) A driver's license as provided for in this subsection shall bear the legend: 'The individual shown hereon has passed the driving skills, knowledge, and vision tests
required by state law.' Such driver's license shall, in white letters displayed on a black

96 banner positioned at the top or bottom, or both, of such driver's license, include the
term, 'NOT FOR FEDERAL USE'. Such driver's license shall have a vertical
orientation and the term 'NOT U.S. CITIZEN' shall appear vertically along the right
side of the photograph of the bearer of such driver's license. Other than as provided for
in this paragraph, such driver's license shall contain the same physical characteristics
of, and be similar in form to, any other driver's license issued by the department.

(5) The department shall not issue any temporary driving privileges as provided for in
subsection (e) of Code Section 40-5-24 to any person who presents an Employment
Authorization Document from the United States Citizenship and Immigration Services
with an unlawful immigration status EAD code.

(a.2) No person possessing an Employment Authorization Document from the United
States Citizenship and Immigration Services with an unlawful immigration status EAD
code shall be eligible to obtain a driver's license or a special identification card other than
a driver's license as provided for under subsection (a.1) of this Code section or a special
identification card as provided for under subsection (d) of Code Section 40-5-21.1,
respectively; provided, however, that any person who possesses an Employment
Authorization Document from the United States Citizenship and Immigration Services with
an unlawful immigration status EAD code and who has a valid driver's license or special
identification card other than a driver's license as provided for under subsection (a.1) of this
Code section or a special identification card as provided for under subsection (d) of Code
Section 40-5-21.1 shall, upon expiration of such driver's license or special identification
card, be subject to the provisions of subsection (a.1) of this Code section and subsection
(d) of Code Section 40-5-21.1."

SECTION 5.

Said title is further amended by revising Code Section 40-5-21.1, relating to temporary
licenses, permits, or special identification cards, foreign licenses or identification cards as
evidence of legal presence in the United States, and extensions, as follows:

"40-5-21.1.

(a) Except as provided for in subsections (a.1) and (a.2) of Code Section 40-5-20,
notwithstanding Notwithstanding any other provision of this title, an applicant who
presents in person valid documentary evidence of:

1. Admission to the United States in a valid, unexpired nonimmigrant status;
2. A pending or approved application for asylum in the United States;
3. Admission into the United States in refugee status;
4. An approved application for temporary protected status in the United States;
(5) Approved deferred action on deportation status;

(6) Other federal documentation verified by the United States Department of Homeland Security to be valid documentary evidence of lawful presence immigration status in the United States under federal immigration law; or

(7) Verification of lawful presence immigration status as provided by Code Section 40-5-21.2

may be issued a temporary license, permit, or special identification card. Such temporary license, permit, or special identification card shall be valid only during the period of time of the applicant's authorized stay in the United States or five years, whichever occurs first. Such temporary license, permit, or special identification card issued on and after July 1, 2019, shall include the term, 'NOT U.S. CITIZEN' alongside the photograph of the bearer of such license, permit, or card.

(b) A driver's license or identification card issued by any state or territory which, on or after July 1, 2006, authorized such driver's license or identification card to be issued to persons not lawfully present without lawful immigration status in the United States may not be accepted as evidence of legal presence lawful immigration status in the United States.

(c) Any noncitizen applicant whose Georgia driver's license or identification card has expired, or will expire within 30 days, and who has filed, or on whose behalf has been filed, a request for an extension with the United States Department of Homeland Security, or similar such federal issuing agency, for time to remain lawfully within the United States shall be issued a temporary driving permit or identification card valid for 120 days from the date of the expiration of his or her valid driver's license or identification card. The noncitizen applicant shall be required to present evidence of the application for extension by submitting a copy or copies of documentation designated by the department. A temporary driving permit or identification card shall be issued upon submission of the required documentation and an application fee in an amount to be determined by the department. Upon the expiration of the temporary driving permit or identification card, no further consecutive temporary permits or identification cards shall be authorized; provided, however, that application may be made following the expiration of an additional valid Georgia driver's license or identification card.

(d) Notwithstanding any other provision of this title, an applicant who possesses an Employment Authorization Document from the United States Citizenship and Immigration Services with an unlawful immigration status EAD code may be issued a special identification card which shall be valid only during the period of time of the applicant's possession of an unlawful immigration status EAD code or two years, whichever occurs first. Notwithstanding any other provision of this title and except as
otherwise provided for in this subsection, such special identification card shall in every
way conform to the provisions governing personal identification cards provided for by
this title, including but not limited to fees, proof of birth date, unlawful use, issuances,
renewals, and replacements.

(2) Prior to the issuance of such special identification card as provided for in
paragraph (1) of this subsection, the department shall obtain the fingerprints of the
applicant.

(3)(A) In accordance with the REAL ID Act of 2005, 8 U.S.C. Section 1101 et seq.,
the department shall distinguish the special identification card provided for in this
subsection from other personal identification cards issued by the department by the use
of a unique design and color and have a vertical orientation.

(B) A special identification card provided for in this subsection shall, in white letters
displayed on a black banner positioned at the top or bottom, or both, of the special
identification card, include the term, 'NOT FOR FEDERAL USE'. Other than as
provided for in this paragraph, such special identification card shall contain the same
physical characteristics of, and be similar in form to, other personal identification cards
issued by the department."

SECTION 6.

Said title is further amended by revising subsection (b) and by adding new subsections to
Code Section 40-5-21.2, relating to compliance with the Systematic Alien Verification for
Entitlements Program, application, and implementation, to read as follows:

"(b) The department shall utilize the following procedures in this subsection before issuing
an identification card, license, permit, or other official document to an applicant who is a
noncitizen:

(1) The department shall attempt to confirm through the SAVE program that whether the
applicant is lawfully present in the United States has an unlawful immigration status EAD
code; and

(2) If the SAVE program does not provide sufficient information to the department to
make a determination, the department shall be authorized to accept verbal or e-mail,
email, or other means of confirmation of the legal lawful immigration status of the
applicant from the Department of Homeland Security, including, but not limited to,
confirmation of such noncitizen's possession of an Employment Authorization Document
and whether such Employment Authorization Document contains an unlawful
immigration status EAD code."

"(e) A person determined to possess an Employment Authorization Document from the
United States Citizenship and Immigration Services with an unlawful immigration status
EAD code pursuant to this Code section shall be eligible for a driver's license as provided for in subsection (a.1) of Code Section 40-5-20 or a special identification card as provided for in subsection (d) of Code Section 40-5-21.1.

(f) The department shall maintain a permanent record of the codes on Employment Authorization Documents that the department uses in issuing an identification card, license, permit, or other official document to an applicant under this chapter. Such record shall be open to public inspection pursuant to Chapter 18 of Title 50.

(g) For purposes of this chapter, lawful immigration status shall be as provided for by the United States Citizenship and Immigration Services as reflected in Employment Authorization Document code definitions issued by the United States Citizenship and Immigration Services."

SECTION 7.

Said title is further amended by revising subsection (a) of Code Section 40-5-28, relating to the issuance of licenses and contents, as follows:

“(a) Except as provided in subsection (c) of this Code section, the department shall, upon payment of the required fee, issue to every applicant qualifying therefor a driver's license indicating the type or general class of vehicles the licensee may drive, which license shall be upon a form prescribed by the department and which shall bear thereon a distinguishing number assigned to the licensee, a photograph of the licensee, the licensee's full legal name, either a facsimile of the signature of the licensee or a space upon which the licensee shall write his or her usual signature with a pen and ink immediately upon receipt of the license, and such other information or identification as is required by the department. No license shall be valid until it has been so signed by the licensee. Except as provided for under Code Section 40-5-20 or 40-5-21.1, the department shall not require applicants to submit or otherwise obtain from applicants any fingerprints or any other biological characteristic or information which uniquely identifies an individual, including without limitation deoxyribonucleic acid (DNA) and retinal scan identification characteristics but not including a photograph, by any means upon application.”

SECTION 8.

Said title is further amended by revising paragraphs (1), (2), and (3) of Code Section 40-5-120, relating to the unlawful use of license or identification card and penalties for violations of chapter generally, as follows:

"(1) Display or cause or permit to be displayed or have in his or her possession any canceled, revoked, or suspended driver's license or personal identification card issued pursuant to Code Section 40-5-100 this chapter;"
(2) Fail or refuse to surrender to the department upon lawful demand any driver's license or personal identification card issued pursuant to Code Section 40-5-100 this chapter which has been suspended, revoked, disqualified, or canceled;

(3) Permit any unlawful use of a driver's license or personal identification card issued pursuant to Code Section 40-5-100 this chapter issued to such person;”

SECTION 9.
Said title is further amended by adding a new Code section to Chapter 16, relating to the Department of Driver Services, to read as follows:

“40-16-9. On or after July 1, 2019, the department shall participate in the Records and Information from DMVs for E-Verify (RIDE) program of the United States Department of Homeland Security. The commissioner shall promulgate rules and regulations for the department's participation in such program.”

SECTION 10.
This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 11.
All laws and parts of laws in conflict with this Act are repealed.