

HOUSE BILL No. 2717

AN ACT concerning municipalities; relating to law enforcement agencies and cooperation with federal officials regarding citizenship, immigration status and enforcement of federal immigration laws; requiring any municipal identification card to state it is not valid for state identification including voter identification; amending K.S.A. 8-1327 and 25-2908 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. As used in K.S.A. 8-1327, and amendments thereto, and sections 1 through 6, and amendments thereto:

(a) "Law enforcement agency" means a city police department, a county sheriff's department, a county police department or any law enforcement department of a taxing subdivision of the state.

(b) "Law enforcement officer" means a full-time or part-time officer or employee of a city, county or taxing subdivision of the state whose duties include the prevention or detection of crime and the enforcement of criminal and traffic laws of the state or of any municipality.

(c) "Municipal identification card" means any document, card or other instrument authorized or issued by or on behalf of a city or county and bearing a name, photograph or other descriptive information of any individual and intended for use as a form of identification.

(d) "Municipality" means a city, county or any taxing subdivision of the state that employs law enforcement officers.

New Sec. 2. (a) No municipality shall enact, implement or enforce an ordinance, resolution, rule or policy that prohibits or in any way restricts a law enforcement officer, local official or local government employee, from taking the following actions with regard to information of the citizenship or immigration status, lawful or unlawful, of an individual:

- (1) Communicating or cooperating with federal officials;
- (2) sending to or receiving information from the United States department of homeland security;
- (3) obtaining or maintaining information; or
- (4) exchanging information with another federal, state, or local government entity.

(b) Any ordinance, resolution, rule or policy that violates subsection (a) is null and void.

New Sec. 3. A municipality shall not limit or restrict the enforcement of federal immigration laws.

New Sec. 4. A municipal identification card shall not be used to satisfy any requirement of state law for proof of identity and each municipal identification card shall state on its face the statement "Not valid for state ID".

New Sec. 5. It is unlawful to use racial or other biased-based policing in the enforcement of federal immigration law and communications with federal agencies within the scope of this act. As used in this section, "racial or other biased-based policing" means the same as defined in K.S.A. 22-4606, and amendments thereto. Any person who believes such person has been subjected to racial or other biased-based policing by a law enforcement officer or agency in violation of this section may file a complaint pursuant to K.S.A. 22-4611, and amendments thereto.

New Sec. 6. The attorney general or county or district attorney may bring an action to compel compliance with sections 2 through 5, and amendments thereto, and if a court finds that a municipality or any other person or entity has violated, is violating or is about to violate any provision of this act the court shall enjoin the municipality, person or entity to comply with this act.

Sec. 7. K.S.A. 8-1327 is hereby amended to read as follows: 8-1327. (a) It shall be unlawful for any person, for any purpose, to:

- (1) Display, cause or permit to be displayed, or have in possession, any fictitious, fraudulently altered or fraudulently obtained identification card.
- (2) Lend any identification card to any other person or knowingly

permit the use thereof by another.

(3) Display or represent any identification card not issued to the person as being the person's card.

(4) Permit any unlawful use of an identification card issued to the person.

(5) Use a false or fictitious name in any application for an identification card, or any renewal or replacement thereof, or knowingly conceal a material fact or otherwise commit a fraud in any such application.

(6) Display or possess any photograph, photostat, duplicate, reproduction or facsimile of an identification card unless authorized by the provisions of this act.

(7) Photograph, photostat, duplicate or in any way reproduce any identification card or facsimile thereof in such a manner that it could be mistaken for a valid identification card or display or have in possession any such photograph, photostat, duplicate, reproduction or facsimile unless authorized by law.

(8) Fail or refuse to surrender to the division upon its lawful demand any identification card which has been canceled.

(9) Display or cause or permit to be displayed any canceled identification card.

(b) Violation of ~~paragraphs (1) or (9) of subsection (a) subsections (a)(1) or (a)(9)~~ is a class B nonperson misdemeanor. Violation of ~~paragraphs (2), (3), (4), (6), (7) or (8) of subsection (a) subsections (a)(2), (a)(3), (a)(4), (a)(6), (a)(7) or (a)(8)~~ is a class A nonperson misdemeanor. Violation of ~~paragraph (5) of subsection (a) subsection (a)(5)~~ is a severity level 9, nonperson felony.

(c) It shall be unlawful for any person to:

(1) Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years of age for use in the purchase of any alcoholic liquor.

(2) Lend any identification card to or knowingly permit the use of any identification card by any person under the legal age for consumption of cereal malt beverage for use in the purchase of any cereal malt beverage.

(3) Lend any identification card, driver's license or other form of identification to aid another person in obtaining an identification card or replacement identification card.

(4) Display or cause to be displayed or have in possession any fictitious or fraudulently altered identification card by any person under 21 years of age for use in the purchase of any alcoholic liquor or cereal malt beverage.

(d) (1) Upon a first conviction of a violation of any provision of subsection (c) a person shall be guilty of a class B nonperson misdemeanor and shall be sentenced to not less than 100 hours of public service and fined not less than \$200 nor more than \$500.

(2) On a second or subsequent conviction of a violation of any provision of subsection (c), a person shall be guilty of a class A nonperson misdemeanor.

(e) The provisions of this section shall apply to any identification card, driver's license or other form of identification whether issued under the laws of this state or issued under the laws of another state or jurisdiction *and to any municipal identification card as defined by section 1, and amendments thereto.*

Sec. 8. K.S.A. 25-2908 is hereby amended to read as follows: 25-2908. (a) Each polling place shall use either: (1) A registration book and a poll book, as defined in K.S.A. 25-2507(a) and ~~K.S.A. 25-2507(b)(1)~~, and amendments thereto; or (2) a registration book, as defined in K.S.A. 25-2507(b)(2), and amendments thereto. The county election officer shall determine which books are used in each county, and which book voters shall sign.

(b) A person desiring to vote shall provide to the election board: (1) The voter's name; (2) if required, the voter's address; (3) the voter's signature on the registration or poll book; and (4) a valid form of

identification listed in subsection (h). A signature may be made by mark, initials, typewriter, print, stamp, symbol or any other manner if by placing the signature on the document the person intends the signature to be binding. A signature may be made by another person at the voter's direction if the signature reflects such voter's intention.

(c) A member of the election board shall:

(1) Announce the voter's name in a loud and distinct tone of voice, and, if the name is in the registration books, the member of the election board having the registration record shall repeat the name;

(2) request the voter's signature on the registration or poll book;

(3) provide the required signature at the request of and on behalf of any voter who is unable to personally affix a signature by reason of temporary illness or disability, or lack of proficiency in reading the English language;

(4) request a valid form of identification from the voter. If the member of the election board is satisfied that the voter is the person depicted in the identification and that the identification provided is one of the valid forms of identification listed in subsection (h), the member of the election board shall place such member's initials in the space provided and allow the voter to vote;

(5) give the voter one ballot, on the upper right-hand corner of which shall be written the number corresponding to the voter's number in the registration book or poll book; and

(6) mark the voter's name in the registration book and party affiliation list.

(d) If a voter is unable or refuses to provide current and valid identification, the voter may vote a provisional ballot pursuant to K.S.A. 25-409, and amendments thereto. If the voter's name and address do not match the voter's name and address on the registration book or poll book, the voter may vote a provisional ballot according to K.S.A. 25-409, and amendments thereto. The voter shall provide a valid form of identification as defined in subsection (h) ~~of this section~~ to the county election officer in person or provide a copy by mail or electronic means before the meeting of the county board of canvassers. At the meeting of the county board of canvassers the county election officer shall present copies of identification received from provisional voters and the corresponding provisional ballots. If the county board of canvassers determines that a voter's identification is valid and the provisional ballot was properly cast, the ballot shall be counted.

(e) If the name of any person desiring to vote at an election is not in the registration books, an election board member shall print the name and address of the person appearing to vote in the registration book or poll book. The person appearing to vote shall add such person's signature to the registration book or poll book beside such person's printed name, as listed in the registration book or poll book, and the election board judge shall challenge such person's vote pursuant to K.S.A. 25-414, and amendments thereto. During the pendency of a challenge other voters shall be given ballots and be permitted to vote.

(f) A voter who has received an advance voting ballot may vote a provisional ballot on election day at the precinct polling place where the voter resides. If the voter returns the advance voting ballot to a judge or clerk at the precinct polling place, the judge or clerk shall void such advance voting ballot. Any such provisional ballot shall be counted only if the county board of canvassers determines that the provisional ballot was properly cast and the voter has not otherwise voted at such election.

(g) The secretary of state may adopt rules and regulations in order to implement the provisions of this section and define valid forms of identification with greater specificity, however the requirement that a voter must provide a form of identification that complies with ~~the~~ subsection (h) may not be altered.

(h) (1) The following forms of identification shall be valid if the identification contains the name and photograph of the voter and has not expired. Expired documents shall be valid if the bearer of the

document is 65 years of age or older:

(A) A driver's license issued by Kansas or by another state or district of the United States;

(B) a state identification card issued by Kansas or by another state or district of the United States;

(C) a concealed carry of handgun license issued by Kansas or a concealed carry of handgun or weapon license issued by another state or district of the United States;

(D) a United States passport;

(E) an employee badge ~~or identification document~~ issued by a municipal, county, state, or federal government office or agency;

(F) a military identification document issued by the United States;

(G) a student identification card issued by an accredited postsecondary institution of education in the state of Kansas;

(H) a public assistance identification card issued by a municipal, county, state, or federal government office or agency; or

(I) an identification card issued by an Indian tribe.

(2) If the person fails to furnish the identification required by this subsection, the person shall be allowed to vote a provisional ballot. The canvassing board shall determine the validity of the ballot pursuant to K.S.A. 25-3002, and amendments thereto.

(i) The following persons are exempt from the photographic identification document requirements of this section:

(1) Persons with a permanent physical disability that makes it impossible for such persons to travel to a county or state office to obtain a qualifying form of identification and have qualified for permanent advance voting status under K.S.A. 25-1124, and amendments thereto;

(2) members of the uniformed service on active duty who, by reason of such active duty, are absent from the county on election day;

(3) members of the merchant marine who, by reason of service in the merchant marine, are absent from the county on election day;

(4) the spouse or dependent of a member referred to in paragraph (2) or (3), who, by reason of the active duty or service of the member, is absent from the county on election day; and

(5) any voter whose religious beliefs prohibit photographic identification. Any person seeking an exemption under this provision must complete and transmit a declaration concerning such religious beliefs to the county election officer or the Kansas secretary of state. The declaration form shall be available on the official website of the Kansas secretary of state.

(j) "Indian tribe" or "tribe" means any Indian tribe, band, nation or other organized group or community of Indians recognized as eligible for the services provided to Indians by the secretary of the interior because of their status as Indians, including any Alaska native village, as defined in 43 U.S.C. § 1602(c).

Sec. 9. K.S.A. 8-1327 and 25-2908 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.