

**IDENTITY VERIFICATION BY DEPARTMENT OF
COMMERCE**

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael T. Morley

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies general government provisions to address identity documents and verification by the Department of Commerce.

Highlighted Provisions:

This bill:

- ▶ exempts the Department of Commerce from certain verification requirements when issuing a license if certain conditions are met; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-11-104, as last amended by Laws of Utah 2009, Chapter 138

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **63G-11-104** is amended to read:

63G-11-104. Receipt of state, local, or federal public benefits -- Verification --



28 **Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.**

29 (1) As used in this section, "federal program" means the Systematic Alien Verification
30 for Entitlements Program operated by the United States Department of Homeland Security or
31 an equivalent program designated by the Department of Homeland Security.

32 [~~(1)~~] (2) Except as provided in Subsection [~~(3)~~ ~~or where~~] (4) or when exempted by
33 federal law, an agency or political subdivision of the state shall verify the lawful presence in
34 the United States of an individual at least 18 years of age who [~~has applied~~] applies for:

35 (a) a state or local public benefit as defined in 8 U.S.C.[;] Sec. 1621; or

36 (b) a federal public benefit as defined in 8 U.S.C.[;] Sec. 1611, that is administered by
37 an agency or political subdivision of this state.

38 [~~(2)~~] (3) This section shall be enforced without regard to race, religion, gender,
39 ethnicity, or national origin.

40 [~~(3)~~] (4) Verification of lawful presence under this section is not required for:

41 (a) any purpose for which lawful presence in the United States is not restricted by law,
42 ordinance, or regulation;

43 (b) assistance for health care items and services that;

44 (i) are necessary for the treatment of an emergency medical condition, as defined in 42
45 U.S.C.[;] Sec. 1396b(v)(3), of the individual involved; and

46 (ii) are not related to an organ transplant procedure;

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

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

51 (e) programs, services, or assistance such as soup kitchens, crisis counseling and
52 intervention, and short-term shelter, specified by the United States Attorney General, in the
53 sole and unreviewable discretion of the United States Attorney General after consultation with
54 appropriate federal agencies and departments, [~~which~~] that:

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

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

- 59 (iii) are necessary for the protection of life or safety;
- 60 (f) the exemption for paying the nonresident portion of total tuition as set forth in
61 Section 53B-8-106;
- 62 (g) an applicant for a license under Section 61-1-4, if the applicant:
- 63 (i) is registered with the Financial Industry Regulatory Authority; and
- 64 (ii) files an application with the state Division of Securities through the Central
65 Registration Depository;
- 66 (h) a state public benefit to be given to an individual under Title 49, Utah State
67 Retirement and Insurance Benefit Act;
- 68 (i) a home loan that will be insured, guaranteed, or purchased by:
- 69 (i) the Federal Housing Administration, the Veterans Administration, or any other
70 federal agency; or
- 71 (ii) an enterprise as defined in 12 U.S.C.[;] Sec. 4502; [~~and~~]
- 72 (j) a subordinate loan or a grant that will be made to an applicant in connection with a
73 home loan that does not require verification under Subsection [~~(3)(i);~~] (4)(i); and
- 74 (k) an applicant for a license issued by the Department of Commerce, if the applicant
75 provides the Department of Commerce:
- 76 (i) certification, under penalty of perjury, that the applicant is:
- 77 (A) a United States citizen;
- 78 (B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or
- 79 (C) lawfully present in the United States; and
- 80 (ii) a valid driver license number for a driver license issued by:
- 81 (A) Utah; or
- 82 (B) a state other than Utah that as part of issuing the driver license verifies an
83 individual's lawful presence in the United States.
- 84 [~~(4)~~] (5) An agency or political subdivision required to verify the lawful presence in the
85 United States of an applicant under this section shall require the applicant to certify under
86 penalty of perjury that:
- 87 (a) the applicant is a United States citizen; or
- 88 (b) the applicant is:
- 89 (i) a qualified alien as defined in 8 U.S.C.[;] Sec. 1641; and

90 (ii) lawfully present in the United States.

91 ~~[(5)]~~ (6) An agency or political subdivision shall verify a certification required under
92 Subsection ~~[(4)]~~ (5)(b) through the ~~[Systematic Alien Verification for Entitlements Program,~~
93 ~~hereafter referred to in this section as the "program," operated by the United States Department~~
94 ~~of Homeland Security or an equivalent program designated by the Department of Homeland~~
95 ~~Security]~~ federal program.

96 ~~[(6)]~~ (7) (a) An individual who knowingly and willfully makes a false, fictitious, or
97 fraudulent statement or representation in a certification under Subsection (4)(k) or (5) is subject
98 to the criminal penalties applicable in this state for:

99 (i) making a written false statement under Subsection 76-8-504(2); and

100 (ii) fraudulently obtaining:

101 (A) public assistance program benefits under Sections 76-8-1205 and 76-8-1206; or

102 (B) unemployment compensation under Section 76-8-1301.

103 (b) If the certification constitutes a false claim of ~~[U.S.]~~ United States citizenship under
104 18 U.S.C.[;] Sec. 911, the agency or political subdivision shall file a complaint with the United
105 States Attorney General for the applicable district based upon the venue in which the
106 application was made.

107 ~~[(7)]~~ (8) An agency or political subdivision may adopt variations to the requirements of
108 this section ~~[which]~~ that:

109 (a) clearly improve the efficiency of or reduce delay in the verification process; or

110 (b) provide for adjudication of unique individual circumstances where the verification
111 procedures in this section would impose an unusual hardship on a legal resident of Utah.

112 ~~[(8)]~~ (9) It is unlawful for an agency or a political subdivision of this state to provide a
113 state, local, or federal benefit, as defined in 8 U.S.C.[;] Sec. 1611 and ~~[Sec.]~~ 1621, in violation
114 of ~~[the provisions of]~~ this section.

115 ~~[(9) Each]~~ (10) A state agency or department that administers a program of state or
116 local public benefits shall:

117 (a) provide an annual report to the governor, the president of the Senate, and the
118 speaker of the House regarding its compliance with this section; and

119 (b) (i) monitor the federal program for application verification errors and significant
120 delays;

121 (ii) provide an annual report on the errors and delays to ensure that the application of
122 the federal program is not erroneously denying a state or local benefit to a legal resident of the
123 state; and

124 (iii) report delays and errors in the federal program to the United States Department of
125 Homeland Security.

Legislative Review Note
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Office of Legislative Research and General Counsel