

2017 Regular Session

HOUSE BILL NO. 487

BY REPRESENTATIVE TERRY LANDRY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MOTOR VEHICLES: Relative to fraudulent or fictitious identification credentials

1 AN ACT

2 To amend and reenact R.S. 32:410.1(A), (B), (C), (D), and (E) and to enact R.S. 14:70.7(D),
3 relative to fictitious, fraudulent, or facsimile identification documents; to prohibit
4 novelty, unofficial, or fraudulent credentials intended to simulate certain
5 identification credentials issued by governmental entities; to clarify unacceptable
6 defenses for violations of this prohibition; to provide for penalties; and to provide for
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 14:70.7(D) is hereby enacted to read as follows:

10 §70.7. Unlawful production, manufacturing, distribution, or possession of fraudulent
11 documents for identification purposes

12 * * *

13 D. It shall not be a defense to prosecution for a violation of this Section that
14 a fraudulent document for identification purposes contains words indicating that it
15 is a novelty item or an indication that it is not a document for identification purposes.

16 Section 2. R.S. 32:410.1(A), (B), (C), (D), and (E) are hereby amended and
17 reenacted to read as follows:

18 §410.1. Novelty or unofficial credentials; prohibited

19 A. It shall be unlawful for any person to manufacture, advertise for sale, sell,
20 or possess any fictitious or facsimile credential that is intended to simulate a ~~valid~~

1 credential issued by any state, territory, or possession of the United States, the
2 District of Columbia, the Commonwealth of Puerto Rico, any foreign country or
3 government, a United States government-issued credential, or a United States
4 passport or foreign government visa.

5 B. For purposes of this Section, a ~~valid~~ credential shall include but is not
6 limited to any driver's license, driver permit, temporary driver's license, restricted or
7 hardship driver's license, government-issued identification card, school-issued
8 identification card, vehicle registration certificate, or vehicle license plate.

9 C. ~~The following language shall appear on every item that can be interpreted~~
10 ~~as a novelty credential in a size or font equal in size to the largest print appearing~~
11 ~~anywhere on the novelty item: "This document is a novelty item and cannot be used~~
12 ~~for any official purposes or as a lawful means of identification or for the operation~~
13 ~~of a motor vehicle on any public highway or street". It shall not be a defense to a~~
14 ~~violation of this Section that a fictitious or facsimile credential contains words~~
15 ~~indicating that it is a novelty item or an indication that it is not a valid identification~~
16 ~~document, vehicle registration certificate, or vehicle license plate.~~

17 D. The Department of Public Safety and Corrections, office of motor
18 vehicles, may issue a cease and desist order to any person or business who
19 manufactures, advertises for sale, sells, or possesses any credential, including any
20 novelty or unofficial credential, which is ~~not in compliance with~~ it determines to be
21 in violation of this Section. Any such cease and desist order may be served by
22 regular mail with a proof of mailing issued by the United States Postal Service, or
23 hand delivered by a representative of the department. If the cease and desist order
24 is served by mail with proof of mailing, it shall be deemed delivered on the seventh
25 calendar day after the date affixed on the certificate or proof of mailing. The
26 presumption of delivery in this Subsection shall not apply if the cease and desist
27 order is returned as undeliverable.

28 E.(1) If the person or business subject to the cease and desist order cannot
29 be served or does not comply with the cease and desist order, the department may

1 file a petition for injunctive relief as provided in the Code of Civil Procedure for
2 injunctions in the district court. There shall be no suspensive appeal or stay of an
3 order or judgment of the district court granting the department a preliminary or
4 permanent injunction.

5 (2) In the suit for an injunction, the department may demand of the defendant
6 a penalty of not more than five hundred dollars for each day the defendant engaged
7 in any activity prohibited by the cease and desist order issued by the department and
8 court costs. Judgment for penalty and court costs may be rendered in the same
9 judgment in which the injunction is made final.

10 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 487 Reengrossed 2017 Regular Session Terry Landry

Abstract: Prohibits novelty, unofficial, or fraudulent credentials intended to simulate certain identification credentials issued by governmental entities.

Present law provides for the unlawful production, manufacturing, distribution, or possession of fraudulent documents for identification purposes.

Proposed law specifies that it is not a defense to prosecution for a violation of present law that a fraudulent document for identification purposes contains words indicating that it is a novelty item or an indication that it is not a document for identification purposes.

Present law provides that a valid credential includes but is not limited to any driver's license, driver permit, temporary license, restricted or hardship license, government-issued identification card, school-issued identification card, vehicle registration certificate, or vehicle license plate.

Proposed law modifies present law by removing the valid requirement from the credential and replacing "temporary license" with "temporary driver's license", and replacing "restricted or hardship license" with "restricted or hardship driver's license".

Present law requires the following language appear on every item that can be interpreted as a novelty credential in a size or font equal in size to the largest print appearing anywhere on the novelty item: "This document is a novelty item and cannot be used for any official purposes or as a lawful means of identification or for the operation of a motor vehicle on any public highway or street".

Proposed law modifies present law by removing the novelty item language and instead specifying that it is not a defense for a violation of present law that a fictitious or facsimile credential contains words indicating that it is a novelty item or an indication that it is not a valid identification document, vehicle registration certificate, or vehicle license plate.

Present law provides that the Dept. of Public Safety and Corrections, office of motor vehicles, may issue a cease and desist order to any person or business who manufactures, advertises for sale, sells, or possesses any credential, including a novelty or unofficial credential, which is not in compliance with present law.

Proposed law modifies present law by requiring the Dept. of Public Safety and Corrections, office of motor vehicles, determine whether the person or business is in violation of present law.

Proposed law authorizes the department to seek a penalty of not more than \$500 for each day the person engaged in any activity prohibited by the cease and desist order and demand court costs in the suit for injunction.

Proposed law specifies that the penalty amount and court costs may be rendered in the same judgment in which the injunction is made final.

(Amends R.S. 32:410.1(A), (B), (C), (D), and (E); Adds R.S. 14:70.7(D))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill:

1. Authorize the department to demand a penalty of not more than \$500 for each day the defendant engaged in any activity prohibited by the cease and desist order and demand court costs in the suit for injunction.
2. Specify that the penalty amount and court costs may be rendered in the same judgment in which the injunction is made final.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.