

# State of South Dakota

EIGHTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2012

844T0235

## HOUSE BILL NO. 1086

Introduced by: Representatives Olson (Betty), Conzet, Greenfield, Haggar, Hubbel, Jensen, Kirkeby, Kopp, Liss, Magstadt, and Russell and Senators Cutler and Peters

1 FOR AN ACT ENTITLED, An Act to clarify certain provisions relating to establishing identity  
2 by applicants for certain licenses, permits, and identification cards.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 If an applicant establishes his or her current legal identity by presenting one or more of the  
7 documents prescribed in subdivisions 32-12-3.1(1) to (10), inclusive, the department may not  
8 require the applicant to establish any previous legal identity, series of legal identities, or legal  
9 name changes as a result of marriage, divorce, annulment, adoption, or other court decree.  
10 However, if an applicant is unable to establish his or her current legal identity by presenting one  
11 or more of the documents prescribed in subdivisions 32-12-3.1(1) to (10), inclusive, an  
12 applicant may, at his or her discretion, present documentation of any previous legal identity,  
13 series of legal identities, or legal name changes that may be evidentiary of the applicant's current  
14 legal identity.

15 Section 2. That § 32-12-3.1 be amended to read as follows:



1       32-12-3.1. Any applicant as provided for in this chapter shall, on making application for an  
2 operator's license, motorcycle operator's license, restricted minor's permit, motorcycle restricted  
3 minor's permit, instruction permit, motorcycle instruction permit, or nondriver identification  
4 card, present to the examiner one of the following documents in order to establish his or her  
5 current legal identity and date of birth:

- 6       (1) A certified copy of a United States birth certificate filed with the state office of vital  
7 records or equivalent agency;
- 8       (2) A consular report of birth abroad (United States Department of State form FS-240,  
9 DS-1350, or FS-545);
- 10       (3) A valid, unexpired permanent resident card (form I-551 issued by the United States  
11 Department of Homeland Security or Immigration and Naturalization Services);
- 12       (4) An unexpired employment authorization document issued by the United States  
13 Department of Homeland Security (form I-766 or I-688B);
- 14       (5) An unexpired foreign passport with a valid, unexpired United States visa affixed  
15 accompanied by the approved I-94 form documenting the applicant's most recent  
16 entrance into the United States;
- 17       (6) A certificate of naturalization issued by the United States Department of Homeland  
18 Security (form N-550 or N-570);
- 19       (7) A certificate of citizenship form N-560 or N-561 issued by the United States  
20 Department of Homeland Security;
- 21       (8) A valid driver license issued by this state or another state that meets the requirements  
22 of 6 C.F.R. Part 37 as amended through January 1, 2009, and is acceptable by federal  
23 agencies for official purposes;
- 24       (9) Any other document designated by the Department of Homeland Security by

1 publication in the Federal Register that establishes identity and date of birth; or

2 (10) A valid, unexpired United States passport.

3 For all documentation offered by the applicant to provide evidence of identity, date of birth,  
4 social security number or nonwork authorized status, address of principal residence, and lawful  
5 status, the department shall make a copy of the documentation and shall retain the copy for ten  
6 years. All documents retained under this section are confidential. The examiner may, as part of  
7 a documented exceptions process, accept other evidence of identity and date of birth of any  
8 applicant and lawful status of any United States citizen only if the examiner is satisfied that the  
9 applicant cannot, for good reason beyond the applicant's control, produce such primary  
10 documents. The examiner shall record the acceptance of any alternative document under the  
11 exceptions process. The Department of Public Safety may not require new evidence of birth at  
12 the time an application is made by a person holding an operator's license, motorcycle operator's  
13 license, restricted minor's permit, motorcycle restricted minor's permit, instruction permit,  
14 motorcycle instruction permit, or nondriver identification card, if that person's driver license or  
15 nondriver identification card meets the requirements of 6 C.F.R. Part 37 as amended through  
16 January 1, 2009, is acceptable by federal agencies for official purposes, and is turned in to the  
17 department with the application. Any person who obtains a driver license or nondriver  
18 identification card pursuant to this section fraudulently or by use of a fraudulently obtained  
19 document is guilty of a Class 1 misdemeanor.