

DEPARTMENT OF REVENUE

Division of Motor Vehicles – Driver License Section

1 CCR 204-13

RULES FOR PROOF OF IDENTITY, AGE, AND LAWFUL PRESENCE IN THE APPLICATION FOR DRIVER'S LICENSE OR IDENTIFICATION CARD

1.0 Definitions

- 1.1 Age—The length of time in full years since a person's date of birth.
- 1.2 Applicant—Any natural person applying to the Department for a Colorado License or Identification Card.
- 1.3 Department—The Colorado Department of Revenue.
- 1.4 Document—An original document certified by the issuing agency, an amended original document certified by the issuing agency, or a true copy certified by the issuing agency, excluding miniature, wallet sized, or photocopy documents.
- 1.5 Exception Processing—Review of documentary evidence presented by an applicant when it appears that the Applicant cannot provide the documents otherwise required to prove the Applicant's Age, Identity, Lawful Presence, and/or residency. This process is detailed more fully in section 5.0 below.
- 1.6 Identification Card—A photo identification document issued by a state department of motor vehicles or its equivalent that contains the bearer's full legal name and date of birth, but that does not confer upon the bearer the right to operate a motor vehicle.
- 1.7 Identity—Full legal name of the Applicant.
- 1.8 Lawful Presence—Demonstration of Citizenship in the United States or the lawful entry of an alien into the United States for an authorized period of time after inspection and authorization by an immigration officer.
- 1.9 License—A Driver's License, Commercial Driver's License, Minor Driver's License, or Instruction Permit.
- 1.10 Hearing—Hearing before a Department administrative hearing officer.
- 1.11 Incomplete Application—any application for License or Identification Card submitted with insufficient proof of Identity, Age, or Lawful Presence, as required by these rules.
- 1.12 Notice of Denial—Notice of formal denial of application for a License or Identification Card.
- 1.13 Notice of Incomplete Application—Written notice of the documents provided and the documents required to complete an application for a License or Identification Card.
- 1.14 Required Elements—Age, Identity, and Lawful Presence.

- 1.15 SAVE—The Systematic Alien Verification System for Entitlements, which is administered by the United States Citizenship and Immigration Services of the Department of Homeland Security.
- 1.16 SSOLV—The Social Security Online Verification system.

2.0 Proof of Identity, Age, and Lawful Presence

- 2.1 Pursuant to § 42-2-107(2) and § 42-2-302(2), C.R.S., every application for a Colorado License or Identification Card shall state the full name, date of birth, gender, and residence address of the Applicant.
- 2.2 An Applicant must provide Documents that are sufficiently secure and reliable to constitute proof of each of the Required Elements.
 - 2.2.1 A Document shall be deemed proof of Identity and Age only if it is issued in accordance with § 24-72.1-103, C.R.S. The Documents set forth in sections 2.3.1 and 2.3.2 meet such requirements.
 - 2.2.2 A Document shall be deemed proof of Lawful Presence only if it is issued in accordance with § 24-72.1-103, C.R.S., and contains sufficient evidence to assure the Department that the Applicant is in compliance with federal immigration law. The Documents set forth in sections 2.3.1 and 2.3.3 meet such requirements.
 - 2.2.3 Any Applicant who believes he or she has provided sufficient documentation to prove the Required Elements, but whose application has been rejected, may request Exceptions Processing, as described in section 5.0 below, or contest the decision through the process described in section 6.0 below.
- 2.3 The following Documents or combination of Documents are acceptable to provide proof of Age, Identity, and Lawful Presence:
 - 2.3.1 The following Documents, standing alone, provide proof of Age, Identity, and Lawful Presence:
 - 2.3.1.1 A Colorado License or Identification Card that is not expired or that has expired within the last twelve months.
 - 2.3.1.2 A United States Passport bearing the full legal name of the Applicant that has not expired or that has expired within the last ten years. An Applicant who provides a United States Passport that has not expired or that has expired within the last ten years, but that does not bear the Applicant's full legal name, must provide an additional Document from section 2.3.1, 2.3.2, 2.3.3, or 2.3.5 that does bear the Applicant's full legal name.
 - 2.3.1.3 An out-of-state photo driver's license, photo instruction permit, or photo identification card issued by a state that requires proof of Lawful Presence, Age, and Identity, and that is not expired or that has expired within the last twelve months. The list of states that meet this requirement may change from time to time as determined by the states' various statutes, policies, and procedures. A list of states qualifying

under this subsection will be maintained and published by the Department, including but not limited to on its website.

- 2.3.1.4 Foreign Passport bearing a photograph of the applicant, in conjunction with a United States visa and I-94, showing class and expiration date, that establishes the Applicant's Identity, Age, and Lawful Presence.
- 2.3.1.5 A military identification card or common access card issued by the United States Department of Defense that bears a photograph of the Applicant and that is not expired. Such identification cards include active duty, retiree, national guard, and dependent identification cards.
- 2.3.1.6 Certificate of Naturalization bearing the applicant's intact photograph (taken within the previous twenty years) and impressed with the raised embossed seal of the authorizing agency. Older photographs will require an additional Identity Document from section 2.3.2.
- 2.3.1.7 Certificate of Citizenship bearing the applicant's intact photograph (taken within the previous twenty years) and impressed with the raised embossed seal of the authorizing agency. Older photographs will require an additional Identity Document from section 2.3.2.
- 2.3.1.8 Valid I-551, which is a resident alien or permanent residency card that is verified using SAVE.
- 2.3.1.9 Valid Employment Authorization Document, including I-766, I-688, I-688A, I-688B that is verified using SAVE.
- 2.3.1.10 Valid I-94 with Refugee or Asylee status that contains an intact photograph taken within the last twenty years and that is verified using SAVE.
- 2.3.2 The following Documents provide proof of an Applicant's Identity. When providing any of the following documents, an Applicant must also provide proof of Lawful Presence by providing one of the Documents set forth in section 2.3.3.
 - 2.3.2.1 A Colorado License or Identification Card that that has expired within the last ten years.
 - 2.3.2.2 A driver's license or identification card issued by any state, including a state that does not require proof of Lawful Presence to obtain such document, that is not expired or that has expired within the last ten years.
 - 2.3.2.3 A valid identification document issued by the Bureau of Indian Affairs that bears a photograph taken within the last twenty years.
 - 2.3.2.4 A military identification card or common access card issued by the United States Department of Defense that contains a photograph of the applicant and that has expired within the previous ten years. Such identification cards include active duty, retiree, national guard, and dependent identification cards.
 - 2.3.2.5 A Veteran's Administration Card that bears a photograph of the Applicant that was taken within the last twenty years.

- 2.3.2.6 For an Applicant under the age of 18, an affidavit signed by the Applicant's parent or legal guardian (the "affiant"), under penalty of perjury and in the presence of a Department employee, identifying the Applicant, affirming that the Applicant is the person who is identified in the other Documents presented by the Applicant, and verifying the Applicant's Identity, Age, and Lawful Presences. The affiant provide identification consistent with these rules and proof that he or she is the parent or legal guardian of the Applicant.
- 2.3.3 The following Documents provide proof of an applicant's Lawful Presence. These documents must also be accompanied by a proof of Identity Document, as set forth above in section 2.3.2.
 - 2.3.3.1 A Social Security Card that is verified using the SSOLV system.
 - 2.3.3.2 A birth certificate issued by the United States, including any agency or department thereof, the District of Columbia, any state, county, parish, or borough, and which has been certified by the issuing agency.
 - 2.3.3.3 A certificate of citizenship issued by the United States Department of Interior.
 - 2.3.3.4 A certified Order of Adoption bearing the seal or certification of the court of any state, political subdivision, or territory of the United States, and which includes the date and location of birth of the adoptee within the United States.
 - 2.3.3.5 Valid I-94 with Refugee or Asylee status that does not contain a photograph and that is verified using SAVE.
- 2.3.4 An Applicant may prove the Applicant's Age by any of the documents described in sections 2.3.1, 2.3.2, or 2.3.3 that reflect the Applicant's date of birth or by use a school record created within the last twelve months by a school within the United States.
- 2.3.5 A certified certificate of marriage, decree of dissolution of marriage or legal separation issued by any Native American Tribal court or an authorized government agency or court of the United States, any territory, or state of the United States, or any of their political subdivisions, or any court-ordered name change entered by any state or federal court may be used to modify the full legal name of the Applicant.
- 2.4 Any Colorado License or Identification Card issued to a citizen of a foreign country shall expire coincidentally with the Applicant's authorized duration of stay in the United States.
- 2.5 Nothing in these rules shall be construed to prevent the Department from rejecting an application based in whole or in part on fraudulent or unverifiable Documents.
 - 2.5.1 An application shall be rejected if the Applicant presents any fraudulent or altered Documents.
 - 2.5.2 Nothing in the rules restricts or prohibits the Department from verifying any Document presented by an Applicant. Such verification may include, but is not limited to, contacting the issuing agency, using an automated or online verification system created or maintained by a government agency, or comparing

the Document presented to a depiction or description contained in reference material compiled for the purpose of confirming the authenticity of a particular type or category of Document. If the authenticity of a Document cannot be verified, then an application may be rejected, additional documentation may be required, or the Applicant may be referred to Exceptions Processing.

3.0 Process for Complete Application

3.1 When an Applicant has completed the required application and provided the required proof of the Required Elements, the application will be printed and the Applicant must review and verify the information on the application by signing a "signature capture device" and then give a fingerprint and have his or her photograph taken. The printed and signed application will serve as the temporary document. The permanent document will be mailed to the Applicant at the address provided on the application.

4.0 Process for Incomplete Application

4.1 If an Application is incomplete or the Applicant has failed to provide sufficient documentary proof of one or more of the Required Elements, the Department shall serve the Applicant with a Notice of Incomplete Application in accordance with these rules.

4.2 The Notice of Incomplete Application shall include a notation of the reason for the decision that the Application is incomplete.

4.3 The Applicant shall have the opportunity to acquire the additional documentation identified as necessary on the Notice of Incomplete Application and to return to the Department with the required additional documentation prior to being denied a Colorado License or Identification Card.

4.4 If, upon return to the Department, the Applicant fails to provide the additional documentation identified on the Notice of Incomplete Application, the Department shall, at the Applicant's discretion, refer the Applicant to Exceptions Processing or serve the Applicant with a Notice of Denial.

5.0 Exceptions Processing

5.1 An Applicant may attempt to obtain a Colorado License or Identification Card through Exceptions Processing at the outset of the application process (if the Applicant has reason to believe that he or she will be unable to provide adequate documentation) or after being issued a Notice of Incomplete Application.

5.2 When it appears that the Applicant cannot provide the Documents otherwise required to prove the Applicant's Age, Identity, Residency, and Lawful Presence, the Applicant shall be referred to the Motor Vehicle Investigations Unit for Exceptions Processing. A branch manager in consultation with an Investigator will review all available documentation to determine whether the Applicant's Identity, Age, and Lawful Presence can be established by a combination of Documents, which includes any of the Documents listed in section 2.3 and/or:

- 5.2.1 A valid Individual Colorado or Federal Tax Return, with an employee copy of an Internal Revenue Service form W-2 or 1099. Validity shall be determined using the SSOLV system. If the attempted validation of the Social Security Number on the document provided using the SSOLV system fails, then the document shall be deemed invalid.
 - 5.2.2 A life, health, or other insurance record that bears the Applicant's name, age or date of birth, and place of birth within the United States. When an Applicant presents a life, health, or other insurance record for which the Department does not have information regarding the indicia of validity or authenticity for such document, the Department shall determine validity by contacting the issuing entity and either obtaining sufficient information regarding the indicia of authenticity and validity or confirmation that the document presented is valid. The Applicant must cooperate with the Department in obtaining this validation, including signing any authorization required by the issuing entity.
 - 5.2.3 An identification card issued by a federally-recognized tribe. When an Applicant presents an identification document from a federally-recognized tribe for which the Department does not have information regarding the indicia of validity or authenticity for such documents, the Department shall determine validity by contacting the issuing tribe or agency and either obtaining sufficient information regarding the indicia of authenticity and validity or confirmation that the identification presented is valid.
 - 5.2.4 An identity document issued by the Federal Bureau of Prisons or Department of Corrections of Colorado.
 - 5.2.5 A DD-214 that does not include the "not to be used for ID" disclaimer.
 - 5.2.6 An affidavit signed under penalty of perjury, in the presence of a Department employee, identifying the applicant and stating the name or names by which the affiant has known the applicant and that the affiant is unaware of any facts indicating that the applicant's presence in the United States is unlawful. This affiant must present identification and must be a parent or legal guardian of the Applicant, an employee of a governmental agency, or an employee of a non-profit entity registered with the Department for this purpose. The Department shall maintain copies of all such affidavits.
 - 5.2.7 Any other verifiable document which may serve to provide evidence of the Applicant's Identity, Age or Lawful Presence, including expired documents, court documents, religious records, early school records, hospital records, municipal records, and insurance records. When an Applicant presents a document or record under this provision for which the Department does not have information regarding the indicia of validity or authenticity for such document or record, the Department shall determine validity by contacting the issuing agency or entity and either obtaining sufficient information regarding the indicia of authenticity and validity or confirmation that the document presented is valid. The Applicant must cooperate with the Department in obtaining this validation, including signing any authorization required by the issuing agency or entity.
- 5.3 If, after a review of the documents and other evidence gathered during the course of the Exceptions Processing, the Identity, Age, and Lawful Presence of the Applicant can be determined, consistent with state law, to a reasonable degree of certainty, then the Applicant shall be issued a Colorado License or Identification Card, if the Applicant is otherwise qualified to be issued such a Colorado License or Identification Card.

- 5.4 If, after a review of the documents and other evidence gathered during the course of the Exceptions Processing, the Identity, Age, and Lawful Presence of the Applicant cannot be determined, constituent with state law, to a reasonable degree of certainty, then the Applicant shall be issued a Notice of Denial, and is, thereby, eligible to request a hearing with the Motor Vehicle Hearings, as set forth in section 6.0.

6.0 Hearing and Final Agency Action

- 6.1 An Applicant who has been served with a Notice of Denial may, within thirty (30) days of being issued such a notice, request a hearing on the merits of the denial by making written request for hearing to the Hearings Section of the Department at 1881 Pierce St. #106, Lakewood, CO 80214. The Department shall include a form for requesting such a hearing with the Notice of Denial that is served on the Applicant.
- 6.2 The Hearings Section shall hold the hearing in accordance the provisions of the State Administrative Procedure Act and the provisions of Title 42 of the Colorado Revised Statutes.
- 6.3 The only issue at hearing shall be whether the documentation provided by Applicant in support of the application for Colorado License or Identification Card is sufficient under Colorado statute and these rules.
- 6.4 The hearing officer shall issue a written decision within fifteen (15) business days of the completion of the hearing. If the hearing officer finds that the documentation is insufficient, then the denial shall be sustained. If the hearing officer finds that the documentation is sufficient, then the denial shall be rescinded and the Department shall issue the Colorado License or Identification Card based on the existing documentation.
- 6.5 The decision by the hearing officer shall constitute final agency action, and is subject to judicial review as provided by § 24-4-106, C.R.S.

7.0 Effective Date

- 7.1 Subject to the Administrative Procedures Act, these rules shall take effect on August 1, 2007.