

Verifying Lawful Presence in U.S. in Order to Get Public Benefits

This Act requires people 18 years or older to prove they are lawfully present in the United States before such people can get certain public benefits. They can do this by providing:

- a state driver’s license or state identification card; or
 - a valid driver’s license or similar document issued for the purpose of identification by another state or territory of the United States, if such license or document contains a photograph if the individual or such other personal identifying information relating to the individual that the director of the department of health and welfare or, with regard to unemployment compensation benefits, the director of the department of commerce and labor finds, by rule, sufficient for purposes of this section; or
 - a United States Military Card or A Military Dependent’s Identification Card; or
 - a United States Coast Guard Merchant Mariner Card; or
 - a Native American Tribal Document;
 - a valid United States Passport; and
 - a valid Social Security Number that has been assigned to the applicant; and
- attest, under penalty of perjury and on a form designated or established by the director of the state department of health and welfare or, with regard to unemployment compensation benefits, by the director of the state department of commerce and labor, that the applicant is a United States citizen or legal permanent resident or the applicant is otherwise lawfully present in the United States pursuant to federal law.

Submitted as:

Idaho

[Chapter 311](#)

Status: Enacted into law in 2007.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “An Act to Require People to be
2 Lawfully Present in the United States to Get Certain Public Benefits.”

3
4 Section 2. [*Legislative Findings.*]

5 (1) The [Legislature] hereby finds and declares that it is the public policy of this state that
6 people [eighteen (18) years of age or older] shall provide proof that they are lawfully present in
7 the United States prior to receiving certain public benefits.

8 (2) The intent of the [Legislature] is not to regulate immigration but to control public
9 expenditures for certain public benefits, not inconsistent with federal law.

10
11 Section 3. [*Definitions.*] As used in this Act:

12 (1) “emergency medical condition” shall have the same meaning as provided in 42 U.S.C.
13 Section 1396b(v)(3).

14 (2) “federal public benefit” shall have the same meaning as provided in 8 U.S.C. Section
15 1611(c).

16 (3) “state or local public benefit” shall have the same meaning as provided in 8 U.S.C.
17 Section 1621(c).

18
19 Section 4. [*Verification of Lawful Presence: Exceptions, Reporting.*]

20 (1) Except as otherwise provided in subsection (3) of this section or where exempted by
21 federal law, each agency or political subdivision of this state shall verify the lawful presence in the
22 United States of each natural person [eighteen (18) years of age or older] who applies for state or
23 local public benefits or for federal public benefits for the applicant.

24 (2) This section shall be enforced without regard to race, religion, gender, ethnicity or
25 national origin.

26 (3) Verification of lawful presence in the United States shall not be required:

27 (a) for any purpose for which lawful presence in the United States is not required
28 by law, ordinance or rule;

29 (b) for obtaining health care items and services that are necessary for the treatment
30 of an emergency medical condition of the person involved and are not related to an organ
31 transplant procedure;

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

33 (d) for public health assistance for immunizations with respect to immunizable
34 diseases and testing and treatment of symptoms of communicable diseases whether or not such
35 symptoms are caused by a communicable disease;

36 (e) for programs, services or assistance, such as soup kitchens, crisis counseling
37 and intervention and short-term shelter specified by federal law or regulation that:

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

40 (ii) do not condition the provision of assistance, the amount of assistance
41 provided or the cost of assistance provided on the individual recipient’s income or resources; and

42 (iii) are necessary for the protection of life or public safety;

43 (f) for prenatal care; or

44 (g) For postnatal care not to [exceed twelve (12)] months.

45 (4) An agency or a political subdivision shall verify the lawful presence in the United
46 States of each applicant [eighteen (18) years of age or older] for federal public benefits or state or
47 local public benefits by requiring the applicant to produce:

48 (a) (i) a [state] driver’s license or an [state] identification card issued pursuant
49 to [insert citation]; or

50 (ii) a valid driver’s license or similar document issued for the purpose of
51 identification by another state or territory of the United States, if such license or document
52 contains a photograph of the individual or such other personal identifying information relating to
53 the individual that the [director of the department of health and welfare] or, with regard to
54 unemployment compensation benefits, the [director of the department of commerce and labor]
55 finds, by rule, sufficient for purposes of this section; or

56 (iii) a United States Military Card or a Military Dependent’s Identification
57 Card;

58 (iv) a United States Coast Guard Merchant Mariner Card;

59 (v) a Native American Tribal Document;

60 (vi) a valid United States Passport; or

61 (vii) a valid Social Security Number that has been assigned to the applicant;

62 and

63 (b) attest, under penalty of perjury and on a form designated or established by the
64 [director of the department of health and welfare] or, with regard to unemployment compensation
65 benefits, by the [director of the department of commerce and labor], that:

66 (i) the applicant is a United States citizen or legal permanent resident; or

67 (ii) the applicant is otherwise lawfully present in the United States pursuant
68 to federal law.

69 (5) Notwithstanding the requirements of subsection (4)(a) of this section, the [director of
70 the department of health and welfare] or, with regard to unemployment compensation benefits, the
71 [director of the department of commerce and labor] may promulgate such rules as are necessary to
72 ensure that certain people lawfully present in the United States receive authorized benefits
73 including, but not limited to, homeless state citizens.

74 (6) For an applicant who has attested pursuant to subsection (4)(b) of this section stating
75 that the applicant is an alien lawfully present in the United States, verification of lawful presence
76 for federal public benefits or state or local public benefits shall be made through the federal
77 Systematic Alien Verification of Entitlement Program, which may be referred to as the “SAVE”
78 program, operated by the United States Department of Homeland Security or a successor program
79 designated by the United States Department of Homeland Security. Until such verification of
80 lawful presence is made, the attestation may be presumed to be proof of lawful presence for
81 purposes of this section.

82 (a) Errors and significant delays by the SAVE program shall be reported to the
83 United States Department of Homeland Security to ensure that the application of the SAVE
84 program is not wrongfully denying benefits to legal residents of this state.

85 (b) Agencies or political subdivisions may adopt variations of the requirements of
86 subsection (4)(b) of this section to improve efficiency or reduce delay in the verification process
87 or to provide for adjudication of unique individual circumstances in which the verification
88 procedures in this section would impose unusual hardship on a legal resident of this state; except
89 that the variations shall be no less stringent than the requirements of subsection (4)(b) of this
90 section.

91 (c) A person who knowingly makes a false, fictitious or fraudulent statement or
92 representation in an attestation executed pursuant to subsection (4)(b) or (6)(b) of this section shall
93 be guilty of a [misdemeanor].

94 (7) It shall be unlawful for an agency or a political subdivision of this state to provide a
95 federal public benefit or a state or local public benefit in violation of this section.

96
97 Section 5. [*Severability.*] [Insert severability clause.]

98
99 Section 6. [*Repealer.*] [Insert repealer clause.]

100
101 Section 7. [*Effective Date.*] [Insert effective date.]