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MEMORANDUM

To: License Plate Issuing Officials/County Programmers
Automobile Dealers Association of Alabama
Alabama Independent Automobile Dealers Association

From: Brenda R. Coone, Director
Motor Vehicle Division

Subject: Act 2011-535- Immigration Act

This memorandum contains answers to several questions the Motor Vehicle Division has received from licensing officials and their staff, as well as representatives of the Automobile Dealers Association of Alabama (ADAA) and the Alabama Independent Automobile Dealers Association (AIADA) regarding the provisions of Act 2011-535, commonly referred to as the Immigration Act. The answers were provided by Department of Revenue legal counsel and only pertain to Section 30 of the Act. **Please note that the Act provides that a violation of Section 30 is a Class C felony.**

For the purposes of this Act, the term "Person" shall mean an individual or individuals in a general partnership. It does not apply to corporations, LLCs or LLPs.

The term "Business Transaction" includes, but is not limited to, applying for or renewing a motor vehicle license plate, applying for or renewing a driver's license or nondriver identification card, or applying for or renewing a business license. Filing an application or making a payment for a license/permit with an application fee is a business transaction.

1. How may county officials verify citizenship or lawful presence for motor vehicle registration purposes?

a. Any person attempting to register a motor vehicle **must first prove his or her United States citizenship.** If the person is an alien, he or she must demonstrate that he or she has lawful presence in the United States. One of the following documents must be presented to the official to satisfy the proof requirement. Designated agents are to retain a copy of the document presented as verification that such documents were reviewed.

1. Driver's license or nondriver identification card issued by the Alabama Department of Public Safety. A driver's license or nondriver identification card issued by another jurisdiction will only be acceptable if there is language printed on the license or identification card, by the issuing jurisdiction, that indicates that the person has provided satisfactory proof of United States

citizenship. The driver license or nondriver identification card must be valid, which means unexpired.

2. Birth certificate that verifies United States citizenship.

3. Pertinent pages of the applicant's United States valid or expired passport identifying the applicant and the applicant's passport number.

4. United States naturalization documents or the number of the certificate of naturalization. The number must be verified with the U.S. Bureau of Citizenship and Immigration Services by the county election officer or the Secretary of State.

5. Bureau of Indian Affairs card number, tribal treaty card number, or tribal enrollment number.

6. Consular report of birth abroad of a citizen of the United States of America.

7. Certificate of citizenship issued by the United States Citizenship and Immigration Services.

8. Certification of report of birth issued by the United States Department of State.

9. American Indian card, with KIC classification, issued by the United States Department of Homeland Security.

10. Final adoption decree showing the applicant's name and United States birthplace.

11. Official United States military record of service showing the applicant's place of birth in the United States.

12. An extract from a United States hospital record of birth created at the time of the applicant's birth indicating the applicant's place of birth in the United States.

13. Other documents or methods of proof of United States citizenship issued by the federal government pursuant to the Immigration and Nationality Act of 1952, and amendments thereto.

b. An alien who can present one of the following documents is entitled to the presumption that he or she is **an alien lawfully present** in the United States and may apply for title and register a motor vehicle. Designated agents are to retain a copy of the document presented as verification that such documents were reviewed. In the event that an alien cannot present any of the documents listed below, an alien's lawful presence in the United States shall be verified via the Systematic Alien Verification for Entitlements (SAVE) program operated by the Department of Homeland Security, or by other verification with the Department of Homeland Security pursuant to 8 U.S.C. §1373(c).

1. A valid, unexpired Alabama Driver's license.

2. A valid, unexpired Alabama nondriver identification card.

3. A valid tribal enrollment card or other form of tribal identification bearing a photograph or other biometric identifier.

4. Any valid United States federal or state government issued identification document bearing a photograph or other biometric identifier if issued by an entity that requires proof of lawful presence in the United States before issuance.

5. A foreign passport with an unexpired United States Visa and a corresponding stamp or notation by the United States Department of Homeland Security indicating the bearer's admission to the United States.

6. A foreign passport issued by a visa waiver country with the corresponding entry stamp and unexpired duration of stay annotation or an I-94W form by the United States Department of Homeland Security indicating the bearer's admission to the United States.

2. How is citizenship or lawful presence verified if the vehicle registrations are renewed online or by mail?

In order to process online and/or mail renewals, registrants will be required to provde a copy of any of the designated proof documents to the licensing official.

3. **How will counties know whether an Alabama driver's license or identification card is valid? What about a driver's license or identification card issued by another jurisdiction?**

An Alabama driver's license or identification card is considered valid if it is unexpired. Unless another jurisdiction's driver's license contains language printed on the license or identification card, by the issuing jurisdiction, that indicates that the person has provided satisfactory proof of United States citizenship, the driver's license or identification card cannot be accepted as proof of citizenship or lawful presence in this state. If these documents are acceptable, they also must be unexpired.

4. Should everyone be considered an alien until they can present documents proving that they are not?

Yes.

5. Who constitutes a public official?

Licensing officials are considered public officials within the provisions of Act 2011-535.

6. If someone titles/registers vehicles for others and his or her name and another person's name appears on the title/registration, should all registrants be verified prior to issuing a title and/or registration?

Yes. Every person whose name appears on the title/registration must be validated prior to a vehicle registration being issued.

7. Is titling a vehicle a business transaction?

Yes. The Motor Vehicle Division will add language to the title application for the designated agent to sign certifying that verification of citizenship or lawful presence did occur.

8. If someone is attempting to register/title a vehicle and they cannot provide proof of U. S. citizenship or lawful presence, are licensing officials required to report this incident? If so, to whom?

There are no requirements for designated agents to report such incidents.

9. What are the validation procedures for vehicles registered in the name of a business?

Corporations, LLCs and LLPs are not included in the term "Person" as it relates to Section 30 of this Act; therefore, for motor vehicle title and registration transactions for these type businesses, no verification is required.

10. Is proof of citizenship or lawful presence required for every transaction after it has been initially verified (i.e. registration renewals)?

For United States citizens, assuming that the official or designated agent establishes a method for retaining a copy of the documentation submitted in compliance with the Act, subsequent verification on additional transactions by the same applicant is not required. However, for a lawfully present alien, subsequent verification is required.

11. Auto dealers are "designated agents" of the Alabama Department of Revenue to process title applications. Will auto dealers in this capacity be required to obtain proof of citizenship or lawful presence of an alien before a title application can be remitted to the state?

Yes. Any designated agent of the Alabama Department of Revenue involved in the title and registration process will be required to obtain one of the proof documents listed in question #1 above prior to completing the business transaction. Designated agents are to retain a copy of the document presented as verification that such documents were reviewed. Additionally, the Motor Vehicle Division will add language to the title application for the designated agent to sign certifying that verification of citizenship or lawful presence did occur.