

## Fact Sheet on H.B. 244 and Georgia Voter ID Requirements<sup>1</sup>

- In 2005, the General Assembly of Georgia adopted [House Bill 244](#) (otherwise known as Act 53), which amended [existing Georgia law](#) and required all registered voters in Georgia who vote *in person* after July 1, 2005, to present a government-issued photo ID card to election officials as a condition of being allowed to vote. On September 19, 2005, a consortium of voting rights advocates and private attorneys [filed suit in federal district court](#) charging the law violates the state and federal constitutions, the 1965 Voting Rights Act, and the 1964 Civil Rights Act.
- H.B. 244 was adopted in a [highly charged atmosphere](#) and only 1 of 43 African-American legislators in both houses of the General Assembly voted in favor of the bill.
- House Bill 244 passed the Georgia General Assembly on March 31, 2005, and was signed by Georgia Governor Sonny Perdue on April 22, 2005. Despite numerous comment letters from [legal scholars](#), citizen advocacy groups and civil rights organizations, including the [NAACP Legal Defense and Educational Fund](#), the [ACLU](#), and dozens of others, urging opposition to the law, the U.S. Department of Justice [granted preclearance to the measure](#) on August 26, 2005. Because of Georgia's history of voting discrimination, the 1965 Voting Rights Act requires that any changes to election laws or voting procedures receive clearance from federal officials before going into effect.
- With the passage of H.B. 244 Georgia became one of only two states requiring registered voters to present a photo ID as an [absolute condition](#) of voting at the polls. The other state is [Indiana](#), where a [legal challenge](#) is currently pending. Georgia's law is the most restrictive in the nation because, for example, unlike the Indiana law (which contains a [religious exemption](#) to the photo ID requirement), H.B. 244 contains no such exceptions.
- A majority of 30 states do not require registered voters to present any form of identification as a condition of voting, while a minority of 20 states require voters to present some form of ID. Of these 20 states, only two (Georgia and [Indiana](#)) require that voters present a photo ID as the sole method of identification required as a condition of voting.
- The new photo ID requirement violates [Section 2 of the Voting Rights Act](#) because it results in the denial of voting rights to African-American and Latino voters. Non-white citizens of Georgia, as a group, have lower personal and family incomes than white citizens of Georgia, and are less likely to have driver's licenses, passports or other government-issued photo IDs.
- H.B. 244 violates the [Georgia Constitution](#) because it creates an entirely new set of voting qualifications beyond those specified in the State Constitution, which declares that: every person who has registered to vote and who is a citizen at least 18 years of age and not disenfranchised, and who meets minimum residency requirements as provided by law, **“shall be entitled to vote.”**

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<sup>1</sup> Prepared by the ACLU Voting Rights Project, 233 Peachtree St., Suite 2725 Harris Tower, Atlanta, GA 30303. Call: 404-523-2721. [www.votingrights.org](http://www.votingrights.org)

## Fact Sheet on H.B. 244 and Georgia Voter ID Requirements – Page two

- H.B. 244 violates the [Civil Rights Act of 1964](#) (specifically [42 U.S.C. § 1971\(a\)\(2\)\(B\)](#)) because it applies different standards for voters who vote in person compared to those who vote by absentee ballot. The photo ID requirement also violates the Civil Rights Act because it denies individuals who are fully qualified and lawfully registered the right to vote in person based solely on whether or not they have a government-issued photo ID, even if they are personally known to election officials, or their signatures match the signatures on their official voter registration cards.

- H.B. violates both the [Fourteenth](#) and [Twenty-Fourth Amendments](#) because it treats voters unequally and imposes a poll tax on the right to vote. Qualified Georgia voters who do not possess a driver's license, passport, a government employee ID card, a military ID card, or a tribal ID card will not be allowed to vote under the new law unless they obtain an official state ID card. This places an extraordinary and unequal burden on voters who:

A. Do not drive because they are poor and do not own a vehicle.

B. Do not drive because they are elderly or impaired, either visually or physically. (According to the AARP and the League of Women Voters, and estimated 152,000 of those who voted in the 2004 general election in Georgia were over 60 years of age and did not have a Georgia driver's license).

C. Live in retirement or nursing homes and do not have driver's licenses.

D. Students without automobiles who have photo ID's issued by private colleges and universities (e.g., Emory, Morehouse, Mercer), but which are not valid for voting under the new law.

In order to cast a ballot in person, a voter in any of these categories would first have to travel to a Department of Driver Services (DDS) office where they would have to present a birth certificate or other "[verifiable evidence](#)" stating their name and birth date and pay a fee of \$20 for a 5-year photo ID, or \$35 for a 10-year Photo ID. Not only are these fees an unconstitutional violation of the [Twenty-Fourth Amendment](#), which abolished the poll tax in 1964, they also violate the [Fourteenth Amendment](#) because they are discriminatory and are not required by all voters. For example, voters who have a Georgia driver's license, a passport, or a government-issued photo ID are not required to pay for a photo ID. Neither are absentee voters who do not have driver's licenses, passports or other government issued photo ID (other than full-time voters).

- The fee charged for a state photo ID card is not a one-time expense, nor is the time, inconvenience, expense and lost wages involved to travel to a DDS office. Unlike voter registration cards which are issued free of charge and never expire, a \$20 photo ID is valid only for *five* years. This means that a five-year card is a \$20 ticket that is good for admission to only one, or at most two, gubernatorial election and one (or at most two) presidential elections – but not two of each - before the ID expires.

- Although H.B. 244 technically allows the DDS to issue a photo ID to a registered voter "who swears under oath that he or she is *indigent and cannot pay* the fee for the identification card," the statute is so poorly drafted that even a registered voter who is "indigent" (a term that is vague and undefined), cannot qualify for the waiver of the \$20 fee if s/he has at least \$20, because s/he cannot truthfully swear that s/he "*cannot pay the fee*" as required by the plain wording of the statute.

## **Fact Sheet on H.B. 244 and Georgia Voter ID Requirements – Page three**

- Even if the term “indigent” were better defined, the \$20 fee for a five-year ID would still constitute an unconstitutional poll tax on the right to vote because thousands of *other* registered voters who are not indigent, but who do not have driver’s licenses, passports, or other government issued photo ID cards, still have to pay the fee. Moreover the \$20 poll tax is discriminatory because it does not have to be paid by absentee voters, or voters who have one of the permitted forms of photo identification.

- The stated purpose of the photo ID requirement was a pretext that was intended to conceal the true purpose of the law, which was - and is - to suppress voting by the poor, the elderly, the infirm, African-American, Latino and other minority voters by increasing the difficulty of voting. This pretext is obvious because the photo ID requirement applies *only* to registered voters who vote *in person*. The General Assembly imposed no similar photo ID requirement on absentee voters, except those voting for the first time. Despite the fact that Secretary of State Cathy Cox had [informed](#) the members of the General Assembly and the Governor prior to the enactment of H.B. 244 that her office had received many complaints of voter fraud involving absentee ballots, but no documented complaints of fraud that involve ballots that were cast in person at the polls, the General Assembly ignored this advice and arbitrarily chose to require only who vote in person to present a photo ID. If the true intention had been to prevent fraudulent voting by imposters, the General Assembly would have imposed the same restrictions on the casting of absentee ballots – particularly after the Secretary of State had called to their attention the fact that there had been many documented instances of fraudulent casting of absentee ballots reported to her office.

- There are currently only [56 DDS](#) locations in Georgia where an official state photo ID may be obtained (*see* [DDS website](#)). This means that tens of thousands of registered voters who live in 103 of Georgia’s 159 counties must travel outside their home counties to a DDS office located in another county to obtain a photo ID. To make matters worse, these offices are only open from 9:00 a.m. to 5:00 p.m. Tuesday through Saturday, but are closed on Sundays, Mondays and evenings – which are times when voters might be able to obtain a photo ID without having to take time off from work. There is not a single DDS office located within the City of Atlanta, Georgia’s largest city.

- Prior to the 1998 elections, voters in Georgia, like registered voters in a majority of other states, were not required to present any form of identification as a condition of voting. As a result of legislation passed in 1997, Georgia voters were required for the first time in 1998 to identify themselves by presenting one of seventeen forms of identification to be allowed to vote at the polls.

- Beginning in 1998, Georgia voters were permitted, but were not required, to present a Georgia driver’s license or other form of official photographic identification as a method of identification as a condition of voting. Voters were free, however, to use any of eight other methods of identification, including such commonly available documents as a birth certificate, a social security card, a copy of a current utility bill, a government check, a payroll check, or a bank statement that showed the name and address of the voter.

- Registered voters who did not have or were unable to find one of the seventeen forms of photographic or non-photographic identification specified under law were entitled to be admitted to the polls, issued a ballot and allowed to vote simply by signing a statement under oath swearing or affirming that he or she is the person identified on the elector’s certificate.