

NATIONAL IMMIGRATION LAW CENTER

Summary of the Driver's License¹ Provisions in the REAL ID Act of 2005 as Made Part of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief (Public Law No: 109-13)²

May 2005

PROVISION	SUMMARY
Information Required on the Driver's License	<ul style="list-style-type: none"> ◆ A state shall include, at minimum, the following information and features on each DL: the person's full name; date of birth; gender; DL number; digital photograph; address of principal residence; signature; physical security features designed to prevent tampering, counterfeiting or duplication of the document for fraudulent purposes; and a common machine-readable technology, with defined minimum data elements.
Minimum DL Issuance Standards	<ul style="list-style-type: none"> ◆ A state shall require, at minimum, presentation and verification of the following information before issuing a DL to a person: <ul style="list-style-type: none"> – a photo ID document (nonphoto ID is acceptable if it includes both the person's full name and his or her date of birth); – documentation showing the person's date of birth; – proof of the person's SSN or verification that the person is not eligible for an SSN; and – documentation of the person's name and address of principal residence. ◆ States shall not accept any foreign document other than an official passport as proof of identification and date of birth. ◆ States must subject each person applying for a DL to mandatory facial image capture. ◆ States must refuse to issue a DL to a person holding a DL issued by another state without confirmation that the person is terminating or has terminated the DL. ◆ The validity of DLs that are not temporary must be limited to a period that does not exceed 8 years.
Immigration Requirements	<ul style="list-style-type: none"> ◆ Each DL applicant must demonstrate proof that he or she: (1) is a U.S. citizen; (2) is lawfully admitted for permanent or temporary residence; (3) is a conditional permanent resident; (4) has a pending or approved application for asylum; (5) is a refugee; (6) is a nonimmigrant with a valid, unexpired visa; (7) has a pending or approved application for temporary protected status; (8) has approved deferred action status; OR (9) has a pending application for permanent residence or conditional permanent residence. ◆ Applicants who present a nonimmigrant visa, a pending application for asylum, a pending or approved application for temporary protected status, proof of approved deferred action status, or a pending application for permanent residence or conditional permanent residence may receive only a "temporary" DL. ◆ A temporary DL: (1) may be valid only for the period of the applicant's authorized stay in the U.S. or one year if there is no definite end to the period of authorized stay; (2) must clearly indicate that it is temporary and shall state the date on which it expires; and (3) may be renewed upon proof that the person's immigration status has been extended by DHS. ◆ In any case in which the state issues a DL that does not satisfy REAL ID's requirements, the DL must clearly state on its face that it may not be accepted by any federal agency for any official purpose and must have a unique design or color indicator to alert federal agencies and other law enforcement personnel that it may not be accepted for any such purpose.

¹ The provisions in the REAL ID Act apply both to driver's licenses and state identification cards; however, this chart will only reference driver's licenses.

² The bill was signed into law by President Bush on May 11, 2005.

PROVISION	SUMMARY
State Compliance	<ul style="list-style-type: none"> ◆ No federal agency may accept for any official purpose a DL issued by a state more than three years after enactment of the Act unless it conforms to the driver's license standards established by the Act. Official purpose includes, but is not limited to, accessing federal facilities, boarding federally regulated commercial aircraft, entering nuclear power plants, and any other purposes the DHS secretary shall determine. ◆ The secretary of DHS may grant a state an extension if the state provides adequate justification for noncompliance. ◆ Each state will certify with DHS that the state is in compliance with the new requirements. The process of certifications will be established by regulation by DHS in consultation with DOT.
Security Standards and Fraud Prevention	<ul style="list-style-type: none"> ◆ The DL must contain physical security features designed to prevent tampering, counterfeiting, or duplication of the document for fraudulent purposes and a common machine-readable technology with defined minimum data elements. ◆ States must ensure the physical security of locations where DLs are produced and the security of document materials and papers from which DLs are produced. ◆ States must subject all persons authorized to manufacture or produce DLs to appropriate security clearance requirements. ◆ States must establish fraudulent document recognition training programs for employees engaged in the issuance of DLs. ◆ Penalizes persons who knowingly traffic in false or actual authentication features for use in false identification documents, document-making implements, or means of identification.
Verification of Information	<ul style="list-style-type: none"> ◆ States must verify with the issuing agency the issuance, validity, and completeness of each document required to be presented to prove identity, date of birth, SSN, ineligibility for a SSN, address of principal residence, U.S. citizenship, immigration status, and extension of immigration status. ◆ States must enter into an MOU with DHS to use SAVE to verify the legal presence of all noncitizen DL applicants no later than Sept. 11, 2005. ◆ States must establish an effective procedure to verify a renewing applicant's information. ◆ States must confirm with the SSA the SSN presented by an applicant; and if it is already registered to or associated with another person to which any state has issued a DL, the state shall resolve the discrepancy and take appropriate action.
Data Storage	<ul style="list-style-type: none"> ◆ States must employ technology to capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format. ◆ States must retain paper copies of source documents for a minimum of 7 years and images of source documents for a minimum of 10 years. ◆ State motor vehicle databases must store all data fields printed on a DL and drivers' histories, including motor vehicle violations, suspensions, and points on DLs.
Linking of Databases	<ul style="list-style-type: none"> ◆ States must provide electronic access to information contained in its motor vehicle databases to all other states.
Grants to States	<ul style="list-style-type: none"> ◆ DHS may make grants to states to assist them in conforming to minimum standards for DLs. ◆ Authorizes appropriations to DHS from fiscal years 2005 to 2009 to carry out the new requirements.
Authority	<ul style="list-style-type: none"> ◆ All authority to issue regulations, certify standards, and issue grants shall be carried out by DHS in consultation with DOT and the states.

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