

REAL ID Act: Frequently Asked Questions

The federal REAL ID Act of 2005 establishes minimum standards for state-issued driver's licenses and identification cards that will be accepted as identification for certain official federal purposes.¹ These standards include immigration status verification requirements for people seeking a REAL ID license.²

The Department of Homeland Security (DHS) repeatedly has extended the deadline for fully implementing the REAL ID Act and has done so in a manner that has created confusion and uncertainty. DHS also has blurred the definition of official federal purposes and the circumstances under which a REAL ID license may be required.

This piece outlines the categories of immigrants that may obtain a REAL ID license, alternatives to presenting a REAL ID license for identification when traveling or entering federal facilities, and the potential risks for immigrants who do not have a REAL ID license.³

■ What does the REAL ID Act do?

Congress passed the REAL ID Act as part of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief in 2005 (HR 1268).⁴ The act provides that state driver's licenses and IDs that do not meet the act's requirements will not be accepted for any specifically defined "official" federal purpose.⁵

According to DHS, "[a]ll states, the District of Columbia, and the 5 territories are now REAL ID compliant and issuing REAL ID driver's licenses and IDs."⁶ DHS certification of states as compliant with REAL ID requires them to meet a wide range of requirements regarding license issuance.⁷

¹ REAL ID Act of 2005, Pub. L. No. 109-13 (May 11, 2005), Title II, <https://www.dhs.gov/xlibrary/assets/real-id-act-text.pdf> (hereafter "REAL ID Act").

² See REAL ID Act, § 202; This piece refers to REAL ID licenses as state-issued licenses or ID cards that are acceptable as identification for federal purposes. Standard or noncompliant licenses refers to licenses or IDs that are not acceptable as identification for federal purposes.

³ For a consumer-facing piece, see REAL ID: What Immigrants Need to Know (Home is Here, May 2025), <https://homeishere.us/real-id-what-immigrants-need-to-know>.

⁴ Pub. L. No. 109-13 (May 11, 2005), <https://www.congress.gov/bill/109th-congress/house-bill/1268>.

⁵ For more details, see *Summary of the Driver's License 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* (National Immigration Law Center, May 2005), www.nilc.org/wp-content/uploads/2015/11/real_id_dl_tbl_051905.pdf.

⁶ REAL ID Frequently Asked Questions (Transportation Security Administration webpage), <https://www.tsa.gov/real-id/real-id-faqs>.

⁷ REAL ID – American Association of Motor Vehicles Administrators (AAMVA), <https://aamva.org/topics/real-id/?wst=4a3b89462cc2cff2cbe0c7accde57421>.

These include requiring REAL ID license applicants to prove, and state agencies to verify, their U.S. citizenship or immigration status, as well as many other benchmarks.⁸

The REAL ID Act sets requirements for identification documents that may be accepted for certain *federal* purposes.⁹ But the federal government cannot lawfully commandeer a state's driver's license-issuing authority and resources to mandate that any license issued by the state meet specific requirements.¹⁰ The effect, however, has been to prompt many states to modify their license issuance requirements to comply with the act.

■ What is an “official purpose”?

The U.S. Department of Homeland Security (DHS) defines “official purpose” to include only “accessing Federal facilities, boarding Federally-regulated commercial aircraft, and entering nuclear power plants.”¹¹

■ Can immigrants obtain REAL ID licenses?

The REAL ID Act lists specific categories of immigrants who may be eligible for a license that is recognized for official federal purposes.¹² This list does not include all lawfully present non-U.S. citizens. As a practical matter, however, DHS has certified as REAL ID-compliant states that issue driver's licenses to a broader group of lawfully present noncitizens. For example, Arizona, issues licenses to people with statuses listed in section 202(b)(B) of the REAL ID Act, as well as other individuals with federally authorized presence, including individuals with work authorization.¹³

⁸ *Id.*; REAL ID Act § 202.

⁹ REAL ID Act §§ 201-202.

¹⁰ See generally *Murphy v. National Collegiate Athletic Assn.*, 584 U.S. 453 (2018).

¹¹ 6 CFR § 37.3, <https://www.law.cornell.edu/cfr/text/6/37.3>.

¹² Under REAL ID Act §202(b)(B), only the following immigration statuses permit their possessors to be eligible for a license that complies with REAL ID's requirements: lawful permanent residents, lawful temporary residents, conditional residents, asylees, refugees, nonimmigrants, asylum applicants, people who have applied for or been granted temporary protected status, people granted deferred action, and people who have applied to adjust to lawful permanent residence. The Extending Government Funding and Delivering Emergency Assistance Act, Pub. L. 117-43, Div. C, Title V, § 2502 (Sept. 30, 2021) <https://www.congress.gov/117/plaws/publ43/PLAW-117publ43.pdf> made certain Afghan nationals paroled into the U.S. eligible for REAL ID compliant driver's licenses and ID cards. The REAL ID Act Modification for Freely Associated States Act, Pub. L. 115-323 (Dec. 17, 2018) <https://www.govinfo.gov/content/pkg/PLAW-115publ323/pdf/PLAW-115publ323.pdf> authorizes states to issue *full-term* REAL ID driver's licenses and ID cards to citizens of the Federated States of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands who were admitted to the US pursuant to a Compact of Free Association.

¹³ See Arizona Travel DL/ID Requirements (Arizona Department of Transportation webpage)

<https://azdot.gov/motor-vehicles/driver-services/driver-license-information> and

<https://apps.azdot.gov/files/mvd/mvd-forms-lib/40-5144.pdf>.

Under the REAL ID Act, certain immigration categories may only obtain temporary REAL ID licenses that are linked to the period of authorized stay in the U.S.¹⁴ As explained below, termination or nonrenewal of these statuses will affect immigrants' ability to obtain or renew a REAL ID license.

■ Which documents other than a REAL ID card are acceptable as proof of identity?

According to DHS, individuals may present “another acceptable form of identification, for boarding a commercial aircraft, accessing federal facilities, and entering nuclear power plants.”¹⁵

The Transportation Security Administration (TSA) website lists a variety of domestic and foreign documents that may be used as proof of identity at airport checkpoints.¹⁶ These currently include a foreign passport, a U.S. Citizenship and Immigration Services Employment Authorization Card (I-766), a Border Crossing Card, and a Veteran Health Identification Card.¹⁷ However, TSA (the DHS agency vested with “the authority to manage, administer, and coordinate DHS actions necessary for implementation of the REAL ID Act”)¹⁸ does not specifically list the acceptable documents for access to federal facilities.

It will be important to check the TSA website for updates to the list, as well as federal facilities themselves to identify acceptable documents.

■ Does the REAL ID Act allow states to issue licenses and cards that are not acceptable as identification for official federal purposes?

Yes. Section 202(d)(11) of the REAL ID Act specifically allows states to issue licenses that do not comply with the act but provides that these licenses must clearly state on their face that they are not acceptable for official federal purposes and must have a unique design and color (“marked cards”).¹⁹

¹⁴ REAL ID Act, §202(c)(2)(C); As set forth in 6 CFR § 37.3, “[a] person in temporary lawful status is a person who: Has a valid nonimmigrant status in the United States (other than a person admitted as a nonimmigrant under the Compacts of Free Association between the United States and the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau); has a pending application for asylum in the United States; has a pending or approved application for temporary protected status (TPS) in the United States; has approved deferred action status; or has a pending application for LPR or conditional permanent resident status.” <https://www.law.cornell.edu/cfr/text/6/37.3>.

¹⁵ REAL ID Frequently Asked Questions (Transportation Security Administration webpage), <https://www.tsa.gov/real-id/real-id-faqs>.

¹⁶ Acceptable Identification at the TSA Checkpoint (Transportation Security Administration webpage), <https://www.tsa.gov/travel/security-screening/identification>.

¹⁷ *Id.*

¹⁸ Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes; Phased Approach for Card-Based Enforcement, 90 Fed. Reg. 3472, 3477, n. 30 (Jan. 14, 2025) at <https://www.govinfo.gov/content/pkg/FR-2025-01-14/pdf/2025-00484.pdf>.

¹⁹ REAL ID Act § 202(d)(11); see also 6 CFR § 37.71; <https://www.tsa.gov/real-id/real-id-faqs>.

■ Is there a drop-dead date for enforcement of REAL ID's requirements?

The REAL ID's requirements originally were scheduled to take effect in 2008, 3 years after the Act's passage.²⁰ But that didn't happen. After repeated postponements, DHS announced on December 5, 2022, that only REAL ID documents could be accepted for "official purposes" beginning May 7, 2025.²¹

However, on January 14, 2025, DHS issued a rule allowing for "phased enforcement" of the REAL ID requirements, ending on May 5, 2027.²² DHS justified its phased enforcement program on federal agencies' need for flexibility.²³ According to DHS, many people have not yet obtained REAL ID licenses or ID cards, and states might be overwhelmed by the demand.²⁴ In addition, "DHS believes Federal agencies could face a serious risk of operational disruption, negative public impact, and potential security vulnerabilities."²⁵

Under "phased enforcement," federal agencies must determine that "a phased enforcement plan is appropriate in consideration of relevant factors including security, operational feasibility, and public impact; ... [c]oordinate the plan with DHS; and make the ... plan publicly available on the agency's web page."²⁶

■ What documents do immigrants need to travel by plane?

TSA says that it is taking a flexible approach to proof of identification during phased enforcement. "Passengers who present a state-issued identification that is not REAL ID compliant at TSA checkpoints and who do not have another acceptable alternative form of ID will be notified of their non-compliance, may be directed to a separate area and may receive additional screening. This includes TSA PreCheck passengers."²⁷ According to DHS Secretary Kristi Noem, "If it's not compliant, they may be diverted to a different line, have an extra step, but people will be allowed to

²⁰ REAL ID Act, § 202(a)(1).

²¹ DHS Announces Extension of REAL ID Full Enforcement Deadline" (U.S. Dept. of Homeland Security press release, Dec. 5, 2022), <https://www.dhs.gov/news/2022/12/05/dhs-announces-extension-real-id-full-enforcement-deadline>. See also "REAL ID: Flying with a REAL ID" (Transportation Security Administration webpage), <https://www.tsa.gov/real-id>.

²² Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes; Phased Approach for Card-Based Enforcement, 90 Fed. Reg. 3472, 3475 (Jan. 14, 2025), <https://www.govinfo.gov/content/pkg/FR-2025-01-14/pdf/2025-00484.pdf>.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ REAL ID Frequently Asked Questions (Transportation Security Administration webpage), <https://www.tsa.gov/real-id/real-id-faqs>.

fly.... We will make sure that it is as seamless as possible and that travelers will get to stay on their intended itinerary, but we are telling people that this law will be enforced.”²⁸

It's not clear how TSA will exercise its flexibility. For example, persons who lack a REAL ID license could be subject to additional inquiries, potentially including inquiries about their immigration status. TSA clearly states that documents other than a REAL ID license, such as a foreign passport or employment authorization document (EAD) are acceptable forms of identification,²⁹ but it's not clear whether persons who use these documents will face additional scrutiny. While TSA states that it “currently accepts expired ID up to two years after expiration,” for its list of acceptable identification documents,³⁰ it is unclear how people who present these documents will be treated. It is also unclear if agents at TSA will require that a foreign passport have a visa stamp.

It is currently risky for undocumented immigrants to travel by plane. We suggest that individuals who are not lawfully present *refrain* from presenting standard or noncompliant licenses for boarding airplanes. We also suggest that immigrants do not present foreign passports that are expired or that do not have a visa stamp, or foreign documents such as a consular ID card that might raise questions about a person's immigration status.

■ What documents do immigrants need to enter a federal facility?

Uncertainty about whether standard or noncompliant licenses will be accepted to enter a federal building is built into REAL ID enforcement.

Even at the time the enforcement date was extended to May 7, 2025, DHS recognized that agencies vary in their policies for accepting identity documents: “[S]ome agencies may accept noncompliant marked DL/IDs for official purposes . . . other agencies may choose not to accept noncompliant marked DL/IDs as part of their phased enforcement plan.”³¹ According to DHS, the Department of Defense “is in the process of no longer accepting noncompliant marked cards across all of its facilities and installations.”³² The Nuclear Regulatory Commission will no longer accept

²⁸ Alex Sundby, “Flying without a Real ID after today's deadline? Here's what to know at the airport” (CBS News, May 7, 2025), <https://www.cbsnews.com/news/real-id-flying-airport-what-to-know/>.

²⁹ Acceptable Identification at the TSA Checkpoint (Transportation Security Administration webpage), <https://www.tsa.gov/travel/security-screening/identification>.

³⁰ Acceptable Identification at the TSA Checkpoint (Transportation Security Administration webpage), <https://www.tsa.gov/travel/security-screening/identification>.

³¹ Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes; Phased Approach for Card-Based Enforcement, 90 Fed. Reg. 3472, 3478 (Jan. 14, 2025), <https://www.govinfo.gov/content/pkg/FR-2025-01-14/pdf/2025-00484.pdf>.

³² *Id.*

noncompliant IDs,³³ and only 3 agencies to date have “coordinated” REAL ID phased enforcement plans with TSA.³⁴

As mentioned above, while TSA recognizes that documents other than a REAL ID are acceptable as proof of identity, its list of acceptable documents applies to airport checkpoints. TSA does not provide a list of acceptable documents for federal facilities. Individuals who need to visit a federal facility, building, or office should check in advance whether the agency requires identification for access purposes and, if they do, the forms of identification they accept.

■ Do REAL ID’s requirements apply to all interactions with federal agents or at all federal buildings?

No. DHS confirmed that a REAL ID license is *not* required in all circumstances involving a federal agent or building: “The Act does not require individuals to present identification where it is not currently required to access a federal facility (such as to enter the public areas of the Smithsonian) nor does it prohibit an agency from accepting other forms of identity documents (such as a U.S. passport or passport card).”³⁵

However, DHS does not provide other examples of federal facilities that do not require a REAL ID license, which creates uncertainty and confusion.³⁶ As suggested previously, immigrants should check with the specific federal facility about identification requirements. State, local or commercial buildings are not governed by the REAL ID Act but may have their own identification requirements.

■ What happens if the status making an immigrant eligible for a REAL ID driver’s license or ID is terminated?

The Trump administration has terminated or announced the termination or nonrenewal of the status of individuals from specified countries who have been lawfully present in the United States.

³³ REAL ID Act – NRC Frequently Asked Questions, <https://www.nrc.gov/docs/ML2504/ML25043A223.pdf>.

³⁴ Commodity Future Trading Commission, Department of Commerce, and Tennessee Valley Authority. REAL ID Frequently Asked Questions (Transportation Security Administration webpage), <https://www.tsa.gov/real-id/real-id-faqs> (Q: Have any agencies coordinated phased enforcement plans with TSA?).

³⁵ REAL ID Frequently Asked Questions (Transportation Security Administration webpage), <https://www.tsa.gov/real-id/real-id-faqs> (Q: Do I need to change how I travel domestically?).

³⁶ DHS previously specified more clearly the purposes for which a REAL ID license is not required such as applying for federal benefits, accessing health services or constitutionally protected activities including a defendant’s access to court proceedings, *see generally*, ID Requirements for Federal Facilities (Department of Homeland Security Guidelines), https://www.dhs.gov/sites/default/files/2025-04/25_0414_fps_id-requirements-for-federal-facilities.pdf; REAL ID Frequently Asked Questions (Department of Homeland Security Webpage) <https://web.archive.org/web/20230309164902/https://www.dhs.gov/real-id/real-id-faqs> (last updated Jan. 4, 2023); Real ID Act of 2005: An Interagency Security Committee Guide 5 (Interagency Security Committee, 2019), https://www.dhs.gov/sites/default/files/publications/20_0602_plcy_real-id-isc-guide-2019.pdf.

As mentioned previously, certain categories of immigrant are eligible only for a temporary REAL ID license that is valid during the period of authorized stay.³⁷

According to DHS “[t]emporary or limited-term licenses and identification cards need to be renewed in person and upon presentation and verification of valid documentary evidence that the temporary lawful status is still in effect or that the individual has lawful status in the United States.”³⁸ As a result, immigrants whose status expires will not be able to renew their temporary REAL ID licenses unless they become eligible for another immigration status.

Immigrants in states that issue standard licenses regardless of immigration status will be able to obtain or renew these licenses.

■ If a person has a license marked “not acceptable for official federal purposes,” does this mean that the license-holder is an unauthorized immigrant?

No. Having a standard or noncompliant license does not indicate that the license-holder is not lawfully present.

REAL ID authorizes states to issue licenses that are not acceptable for official federal purposes, provided that those licenses are distinguishable from REAL ID licenses.³⁹ States can allow US citizens and lawfully present immigrants to choose between a standard and a REAL ID license. They can offer the same standard license to people who cannot prove that they are lawfully present in the U.S. Many of the states that make driver’s licenses available regardless of immigration status (e.g., California, Massachusetts, Minnesota, New Jersey, New York, Vermont, and others) allow U.S. citizens to obtain the same licenses as undocumented immigrants.⁴⁰

Currently, 19 states plus the District of Columbia and Puerto Rico issue some form of driver’s license to otherwise-eligible state residents regardless of their immigration status.⁴¹ They have a compelling interest in ensuring that all drivers have an opportunity to obtain a driver’s license. Ensuring that drivers can be licensed is a matter of public safety. To get a license, drivers are tested to ensure that they know the rules of the road; and if drivers can get a license, they have greater access to car insurance.

³⁷ REAL ID Act, § 202(c)(2)(C); As set forth in 6 CFR § 37.3, *supra* at n. 10.

³⁸ REAL ID Frequently Asked Questions (Transportation Security Administration webpage), <https://www.tsa.gov/real-id/real-id-faqs> (Q. Can a “Temporary” or “Limited Term” license be renewed remotely?).

³⁹ REAL ID Act, §202(d)(11).

⁴⁰ *Citizens and Noncitizens Access to the Driver’s Licenses Available to Undocumented Residents* (National Immigration Law Center, July 2023), <https://www.nilc.org/wp-content/uploads/2021/09/USC-nonUSC-access-to-DLs-Available-to-Undoc-Residents.pdf>.

⁴¹ *State Laws Providing Access to Driver’s Licenses or Cards, Regardless of Immigration Status* (National Immigration Law Center, June 2024), <https://www.nilc.org/issues/drivers-licenses/state-laws-providing-dl-access>.

Immigrant eligibility for a REAL ID license also varies by state. Washington issues REAL ID licenses only to U.S. citizens;⁴² Colorado, Connecticut and some other states issue REAL ID licenses only to US citizens and lawful permanent residents.⁴³ All other residents in these states, including many lawfully present immigrants, can apply only for a standard license.⁴⁴

DHS has eliminated from its REAL ID FAQs a previous caution that no conclusions about a person's citizenship or immigration status may be drawn based on the type of license a person has "given that individuals may obtain noncompliant cards for many reasons unrelated to lawful presence."⁴⁵

■ Are Mobile Driver's Licenses (mDLs) acceptable as identification for REAL ID federal purposes?

In 2020, Congress passed the REAL ID Modernization Act as part of the Consolidated Appropriations Act of 2021.⁴⁶ It redefines driver's licenses and identification cards to include those "stored or accessed via electronic means, such as mobile or digital driver's licenses [or identification cards], which have been issued in accordance with regulations prescribed by the Secretary."⁴⁷ DHS has issued proposed regulations,⁴⁸ but has not yet issued final regulations setting forth comprehensive requirements for mDLs.

According to TSA, after May 7, 2025, "Federal agencies, including TSA, may accept mDLs for federal 'official purposes' only if (1) the State issuing the mDL has received a waiver under 6 CFR 37.7, or (2) the Federal agency has adopted an alternative acceptance policy."⁴⁹ TSA advises that "[a]cceptance policies for mDLs vary by agency. Before attempting to use an mDL, individuals should

⁴² Real ID (Washington State Department of Licensing), <https://dol.wa.gov/id-cards/real-id#whocangetanedloreid>.

⁴³ See e.g. Real ID and Colorado (Colorado, Department of Revenue), <https://dmv.colorado.gov/real-id-and-colorado>; Get a Real ID (Connecticut Department of Motor Vehicles), https://portal.ct.gov/dmv/licenses-permits-ids/get-real-id?language=en_US; Real ID, What Do I Need to Apply (Kentucky Transportation Cabinet), <https://drive.ky.gov/RealID/Pages/What-You-Need.aspx>.

⁴⁴ State Laws Providing Access to Driver's Licenses or Cards, Regardless of Immigration Status (National Immigration Law Center, June 2024), <https://www.nilc.org/issues/drivers-licenses/state-laws-providing-dl-access>.

⁴⁵ REAL ID Frequently Asked Questions for the Public (DHS archives), <https://www.dhs.gov/archive/real-id-public-faqs> (Q: How does the REAL ID implementation impact states that provide driver's licenses and IDs to certain non-citizens/ undocumented immigrants?).

⁴⁶ The REAL ID Modernization Act, Title X, Div. U of the Consolidated Appropriations Act, 2021, Public Law 116-260 (Dec. 27, 2020), <https://www.congress.gov/bill/116th-congress/house-bill/133/text>.

⁴⁷ *Id.* at §1001(b)(B).

⁴⁸ Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes; Waiver for Mobile Driver's Licenses, 88 Fed. Reg. 60056 (Aug. 30, 2023) (to be codified in 6 CFR §37), <https://www.govinfo.gov/content/pkg/FR-2023-08-30/pdf/2023-18582.pdf>.

⁴⁹ REAL ID Mobile Driver's Licenses (mDLs)(TSA), <https://www.dhs.gov/real-id/real-id-mobile-drivers-licenses-mdls>.

contact the agency they intend to visit to ask whether the agency accepts mDLs.”⁵⁰ TSA also warns that “[t]o reduce risk of potential disruptions, TSA strongly encourages all mDL holders to carry a physical acceptable form of ID when traveling.”⁵¹

It is unclear whether mDLs will present risks that information pertaining to immigrants will be shared with DHS, as that could depend on what the final rule authorizes.⁵² Potential risks include the possibility that DHS would gain direct access to DMV databases, that marked licenses could be identified through the verification process, outsourcing of the verification process could limit transparency and accountability, and the possibility that information will be used for immigration enforcement and other purposes.⁵³

■ Does the REAL ID Act give DHS access to state driver’s license databases?

The REAL ID Act sec. 202(d)(12) requires states to “[p]rovide electronic access to all other States to information contained in the motor vehicle database of the State.”⁵⁴ Under sec. 202(d)(6), states must “[r]efuse to issue a driver’s license or identification card to a person holding a driver’s license issued by another State without confirmation that the person is terminating or has terminated the driver’s license.”⁵⁵

DHS has interpreted these requirements in 6 CFR sec. 37.29 to require states to check with all other states to ensure that a driver holds only one driver’s license and only one REAL ID credential (whether a driver’s license or an identification card).⁵⁶

The American Association of Motor Vehicle Administrators (AAMVA), a nonprofit organization that represents state and territorial motor vehicle agencies in the U.S. and Canada,⁵⁷ has developed the State-to-State (S2S) Verification Service to comply with these requirements.⁵⁸ The platform that supports S2S is called the State Pointer Exchange Services (SPEXS).⁵⁹

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² For additional information, see *Mobile Driver’s Licenses and the Costs To Privacy, Safety, and Security* (National Immigration Law Center, Jan. 2024) at <https://www.nilc.org/resources/mobile-drivers-licenses-privacy-safety-security>.

⁵³ *Id.*

⁵⁴ REAL ID Act, § 202(d)(12).

⁵⁵ REAL ID Act, § 202(d)(6).

⁵⁶ 6 CFR § 37.29, <https://www.law.cornell.edu/cfr/text/6/37.29>.

⁵⁷ “About AAMVA” (American Association of Motor Vehicle Administrators webpage), <https://www.aamva.org/about>.

⁵⁸ “State-to-State (S2S) Verification Services” (American Association of Motor Vehicle Administrators webpage), <https://www.aamva.org/State-to-State>.

⁵⁹ *Id.*

According to AAMVA, “the law that funded the development and initial deployment of S2S prohibits the use of funds to create any new means of Federal access to state driver information or any new Federal system of records based on state data. The S2S Service is owned and governed by the states that are participating in the system, and they do not allow any Federal agency access to S2S.”⁶⁰

However, the S2S information exchange system includes a central database, described by AAMVA as a “pointer index” that contains personal information about drivers, including the last five digits of their Social Security numbers and whether they have a REAL ID–compliant license.⁶¹ This raises concerns for states that seek to limit disclosure of drivers’ personal information and have attempted to restrict DHS’s access to their driver’s license databases. This concern is heightened by the fact that, although S2S implements an inherently governmental function, it is unclear whether it is subject to federal Freedom of Information Act (FOIA) requests or state public records requests. Many of its documents are available only to AAMVA members.

In any event, DHS may obtain access to state driver’s license records through a variety of other potentially simpler mechanisms: asking state motor vehicle agencies for information; making requests through the federal law enforcement network Nlets; or through data brokers such as LexisNexis that have bought the information from states.⁶² These records are particularly valuable in revealing a driver’s current address and have been used for this purpose.⁶³ President Trump’s call for information sharing across federal agencies and between federal and state agencies that receive federal funding likewise increases the risk that driver records obtained for one purpose may be used for other purposes such as immigration enforcement.⁶⁴

⁶⁰ S2S Frequently Asked Questions (AAMVA), <https://aamva.org/technology/systems/driver-licensing-systems/s2s-frequently-asked-questions>.

⁶¹ *Id.*

⁶² *Subject to Surveillance* (Somos Un Pueblo Unido, Just Futures Law, Mijente), <https://files.constantcontact.com/b6dfe469001/3326abb4-4580-48be-89dd-1e006a202e09.pdf>; *See Nlets: Questions and Answers* (National Immigration Law Center, Nov. 2020), at 6-7 <https://www.nilc.org/wp-content/uploads/2020/11/Nlets-Q-and-A.pdf>; *American Dragnet* (Georgetown Ctr. On Privacy & Tech., May 10, 2022), https://www.americandragnet.org/sites/default/files/American_Dragnet_report_English_final.pdf.

⁶³ *See How U.S. Immigration & Customs Enforcement and State Motor Vehicle Departments Share Information*, at 4, n. 20 (National Immigration Law Center, May 2016), <https://www.nilc.org/wp-content/uploads/2016/06/Info-Sharing-FOIA-Summary-2016-05-1.pdf> (referring to: <https://www.nilc.org/wp-content/uploads/2016/05/batesp401.pdf>).

⁶⁴ Emily Badger & Sheila Frenkel, “Trump Wants to Merge Government Data: Here are 314 Things It Might Know About You” (New York Times, April 9, 2025), <https://www.nytimes.com/2025/04/09/us/politics/trump-musk-data-access.html>.

■ If a driver's information may be shared for immigration enforcement purposes, should immigrants avoid getting a license?

Immigrants' interactions with law enforcement because of motor vehicle violations, including those related to not having a driver's license, have the potential to lead to ICE enforcement. This is true whether the police conduct joint operations with ICE,⁶⁵ contact ICE because they suspect the driver is undocumented,⁶⁶ or are authorized under Sec. 287(g) of the Immigration and Nationality Act to enforce federal immigration law.⁶⁷ As of June 25, 2025, ICE had signed 737 agreements for 287(g) agreements in 40 states, and 60 agreements were pending.⁶⁸

Immigrants who live in states where a driver's license is available to them will need to weigh the benefits of having a license against the risks of not carrying one. This includes the risk that having a current address in a motor vehicle department's database makes a driver easier to find. A few states do not recognize out-of-state driver's licenses that are issued exclusively to undocumented immigrants and may impose penalties on drivers who present them.⁶⁹

■ What you can do

- Advocate for state laws and policies that expand access to driver's licenses for immigrants.
- Support state laws and policies that protect driver privacy, and limit access to state driver's license information and databases for immigration enforcement purposes.⁷⁰
- Oppose state and local governments from entering into agreements under sec. 287(g) that authorize law enforcement to enforce immigration law or to participate in joint traffic operations with ICE.
- Engage in administrative and legislative advocacy to ensure that your state does not allow the REAL ID verification system or the mDLs verification system to serve as mechanisms for

⁶⁵ Stacey Cameron, "Lawmaker questions constitutionality of ICE, THP operation in Nashville" (WSMV4, June 5, 2025), <https://www.wsmv.com/2025/06/05/lawmaker-questions-constitutionality-ice-thp-operation-nashville/>

⁶⁶ Anna-Catherine Brigida & Eileen Grench, "'Tell the Truth': Families Decry HPD's Role in Houston ICE Arrest" (Houston Landing, March 14, 2025), <https://houstonlanding.org/tell-the-truth-family-decries-hpds-role-in-houston-ice-arrest>.

⁶⁷ Daniel Rivero, "ICE is Quietly Expanding its Operations with Local Law Enforcement Across the Nation" (WLRN, Feb. 24, 2025), <https://www.wlrn.org/government-politics/2025-02-24/ice-immigration-deportation-287g>; Tim Henderson, "ICE Lets Local Officials Stop Immigrants on the Streets as Task Force Program is Back" (Stateline, Feb. 21, 2025), <https://stateline.org/2025/02/21/ice-lets-local-officials-stop-immigrants-on-the-streets-as-task-force-program-is-back>. See also Silvia Foster-Frau, "A Powerful Tool in Trump's Immigration Crackdown: The Routine Traffic Stop" (Wash. Post, June 22, 2025), <https://www.washingtonpost.com/immigration/2025/06/22/trump-ice-deportation-arrests-traffic-stops>.

⁶⁸ Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act (ICE website), <https://www.ice.gov/identify-and-arrest/287g?ref=404media.co>.

⁶⁹ See, e.g. Florida, **SB 1718** (2023), Tennessee **SB 1086** (2025), Wyoming **HB 116** (2025).

⁷⁰ *Protecting State Driver's License Information* (National Immigration Law Center, July 2023), <https://www.nilc.org/resources/protecting-state-drivers-license-information>.

driver's license information to be used or shared with U.S. Immigration and Customs Enforcement for immigration enforcement purposes.