

REAL ID Act Quarterly Report to the Legislature

July 1, 2011 through September 30, 2011

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Preface

Pursuant to legislative request, the REAL ID Act Quarterly Report to the Legislature is being submitted for the period of July 1, 2011, through September 30, 2011. This report is consistent with the REAL ID Quarterly Reports previously required by language contained within the Supplemental Report of the 2007 Budget Act.

This year marked the 10th anniversary of the September 11, 2001, terrorist attacks on the United States. In response to these attacks, the REAL ID Act was signed into law by Congress on May 11, 2005, as Public Law 109-13, 119 Statute 231, 302, and was codified as Title 49 U.S.C. 30301. The final regulations were published in the Federal Register on January 29, 2008.

The federal strategy has been to leverage state-issued driver license and identification (DL/ID) cards as the primary form of identification. The California Department of Motor Vehicles (DMV) has implemented best business practices consistent with many of the provisions of the REAL ID Act, initiating many best business practices prior to the terrorist attacks. DMV's primary objective in this area is to issue DL/ID cards in the most secure manner possible, while safeguarding the integrity of personally identifiable information.

On March 7, 2011, the Department of Homeland Security published a final rule delaying the full compliance deadline of the REAL ID Act from May 11, 2011 to January 15, 2013. Ongoing issues remain regarding the impact to California citizens if California does not comply with the REAL ID Act, including an inability to board federally regulated commercial aircraft and access federal facilities. California legislation is required to implement the REAL ID Act.

California Activities and Approach

California has positioned itself as one of the primary states to influence the review of the REAL ID Act and to address concerns related to federal funding; development of electronic verification systems; and the lack of privacy protection of personally identifiable information. These three issues have been, and continue to be, key areas of concern.

California will continue discussions with the Department of Homeland Security (DHS), other states, and industry representatives including the National Governors Association and National Conference of State Legislatures, to resolve REAL ID-related issues. In an effort to achieve a common level of program readiness, California has continued to advocate the need for all states to implement uniform licensing and identification standards.

California DMV will continue to evaluate the REAL ID Act and implement best business practices to provide Californians with a DL/ID card that can be used for business activities, travel and will be acceptable for “official purposes.” Continued implementation of best practices that are consistent with the provisions of the REAL ID Act will improve the security and integrity of the DL/ID card, and the privacy protection of personally identifiable information thereby issuing a DL/ID card in a secure manner.

REAL ID Act of 2005:

The REAL ID Act was enacted by Congress in 2005, as Public Law 109-13, and the final regulations were published in the Federal Register on January 29, 2008. To be deemed REAL ID-compliant, California must provide documentation to the Department of Homeland Security (DHS) at least 90-days prior to January 15, 2013, certifying that the State complies with the provisions of the REAL ID Act.

The REAL ID Act is intended to strengthen the security of state-issued DL/ID cards by implementing minimum issuance standards that must be met by all states. State-issued DL/IDs must comply with the REAL ID Act requirements if the DL/IDs are to be acceptable for "official" federal purposes, including boarding federally-regulated commercial aircraft and accessing federal facilities.

In December, 2009, DHS stayed the January 1, 2010, deadline for "material compliance" but the May 11, 2011 deadline for "full compliance" remained the same. On March 7, 2011, DHS published a final rule delaying the full compliance deadline for the REAL ID Act until January 15, 2013. DHS cited numerous reasons for the extension, including confusion caused by the introduction and consideration of the PASS ID Act, diminishing state budgets, and the continued need to be able to use state issued driver license and identification (DL/ID) cards for "official purposes," such as accessing a federal building or boarding a plane. California has implemented best business practices that comply with many of the provisions of the REAL ID Act.

DHS is currently preparing guidance for all states clarifying the minimum standards that states must meet to achieve full compliance with REAL ID in order to ensure that every state is afforded the opportunity to achieve full compliance in a practical manner.

Per 6 CFR, Part 37, Subpart D, §37.51, to be in full compliance with the REAL ID Act of 2005, 49 U.S.C. 30301 note, States must meet the standards of subparts A through D or have a REAL ID program that DHS has determined to be comparable to the standards of subparts A through D.

IMPLEMENTING 9/11 COMMISSION RECOMMENDATIONS – DHS PROGRESS REPORT 2011

Secretary of Homeland Security Janet Napolitano released a report that acknowledges the significant progress that DHS, along with its many partners, has made to strengthen the security, reliability and accuracy of personal identification documents and reduce identity fraud while enhancing privacy safeguards.

Since 2006, DHS has awarded over \$180 million dollars through the Driver's License Security Grant Program (DLSGP) to help states and territories improve security of state-issued driver's licenses and identification cards in order to reduce fraud, enhance the reliability and accuracy of personal identification documents, upgrade information technology and facility infrastructure, document security requirements, upgrade equipment and reengineer business practices. These enhancements have enabled states to make progress toward achieving compliance with many aspects of the REAL ID regulations.

Federal Legislative Activity

California DMV monitors and tracks federal legislation related to the REAL ID Act to determine the impact on California residents and whether the legislation will require changes to existing departmental processes and procedures.

Federal legislation is analyzed by congressional staff after introduction; however, bills do not necessarily move through the process of a formal committee review.

PENDING FEDERAL LEGISLATION

The following represents the federal legislative activity related to the provisions of the REAL ID Act during the 112th Congressional Session (January 3, 2011 – January 3, 2013):

H.R. 102: Blackburn (Tennessee)

This legislation, Photo Identification Security Act, would provide that only certain forms of identification of individuals may be accepted for any official purpose by the Federal Government and by financial institutions. Acceptable identification relating to the REAL ID Act is “a driver’s license or identification card issued by a State in the case of a State that is in compliance with title II of the REAL ID Act of 2005.”

Status

- January 5, 2011 - Introduced
- Referred to the Committee on Oversight and Government Reform, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.
- Referred to House Financial Services
- Referred to the Subcommittee on Financial Institutions and Consumer Credit

California Legislative Activity

The following represents the California legislative activity related to the provisions of the REAL ID Act during the 2011/2012 Session:

PENDING LEGISLATION

S.B. 842: Rubio

This bill would require the Department of Motor Vehicles to establish and issue a California Residency Identification Card for military and veteran dependents. This program would extend the rights of California residency to spouses, domestic partners and dependents of members of the armed forces for purposes of entitlement to any state or local benefits and eligibility to apply for and receive state and local public services regardless of immigration status,

Status:

- February 18, 2011 – Introduced
- March 10, 2011 – Referred to Committee on RLS
- March 24, 2011 – Amended, re-referred to Committee on RLS
- March 31, 2011 – Re-referred to Committees on V.A. and ED
- April 25, 2011 – Read and passed as amended, re-referred to Committee on ED
- April 26, 2011 – Amended, re-referred to Committee on ED
- May 10, 2011 – Read and passed as amended, re-referred to Committee on Appropriations
- May 11, 2011 – Amended, re-referred to Committee on Appropriations
- May 23, 2011 – Hearing, Placed in Appropriations suspense file
- May 26, 2011 – Hearing, Held in committee and under submission

PENDING INITIATIVES

California Taxpayer Protection Act of 2012

This initiative proposed an amendment to Section 12801.5 of the California Vehicle Code. The proposed amendment would 1) prohibit the issuance of an original driver license or identification card to a person who does not submit satisfactory proof that their presence in the United States is authorized under federal law; 2) prohibit the acceptance of a driver license or identification card from any other state as proof of lawful status if the other state does not verify the applicant's lawful presence in the United States; 3) require the department to verify an applicant's documents with the issuing federal agency that authorize their presence in the United States if they do not have a verified Social Security

Number; and, 4) require the department to issue duplicate and renewal driver licenses or identification cards pursuant to Public Law 109-13 (also known as the REAL ID Act of 2005).

Federal Funding

HR 2892 (Price, North Carolina) became Public Law 111-83 which authorized the DHS to provide grant funding to state motor vehicle/driver's license authorities to achieve compliance with REAL ID requirements. The federal government has provided federal funds to states through four grant programs:

- FY 2008 REAL ID Demonstration Grant Program
- FY 2009 Driver's License Security Grant Program (2009 DLSGP)
- FY 2010 Driver's License Security Grant Program (2010 DLSGP)
- FY 2011 Driver's License Security Grant Program (2011 DLSGP)

Although the funds for the FY 2008 REAL ID Demonstration Grant Program were competitive, the funds for the FY 2009 DLSGP, the FY 2010 DLSGP, and FY 2011 DLSGP were allocated on a formula basis and dependent on the total number of driver licenses and identification cards issued in each state or territory.

California has been awarded \$6.7 million in federal funds from the first three grants. On September 19, 2011, the department was notified by the Department of Homeland Security (DHS) that its grant application was approved and California had been awarded \$1,641,311 for the FY 2011 Driver's License Security Grant Program (DLSGP).

The California Department of Motor Vehicles is now administering more than \$8.3 million dollars through these four DHS grants. These grant funds are being used to implement enhancements to the DL/ID program in California that are consistent with the requirements of the REAL ID Act.