

Calendar No. 601

116TH CONGRESS
2D SESSION**S. 4133****[Report No. 116–303]**

To modernize the REAL ID Act of 2005, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 1, 2020

Mr. JOHNSON (for himself, Mr. PETERS, Mr. WYDEN, and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

DECEMBER 7, 2020

Reported by Mr. JOHNSON, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]**A BILL**

To modernize the REAL ID Act of 2005, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “REAL ID Moderniza-
 5 tion Act”.

1 **SEC. 2. REAL ID ACT AMENDMENTS.**

2 (a) **DEFINITIONS.**—Section 201 of the REAL ID Act
3 of 2005 (division B of Public Law 109–13, 49 U.S.C.
4 30301 note) is amended—

5 (1) in paragraph (1)—

6 (A) by striking “The term ‘driver’s license’
7 means” and inserting the following: “The term
8 ‘driver’s license’—

9 “(A) means”; and

10 (B) by striking “Code.” and inserting the
11 following: “Code; and

12 “(B) includes driver’s licenses stored or
13 accessed via electronic means, such as mobile or
14 digital driver’s licenses, which have been issued
15 in accordance with regulations prescribed by the
16 Secretary.”; and

17 (2) in paragraph (2)—

18 (A) by striking “The term ‘identification
19 card’ means” and inserting the following: “The
20 term ‘identification card’—

21 “(A) means”; and

22 (B) by striking “State.” and inserting the
23 following: “State; and

24 “(B) includes identification cards stored or
25 accessed via electronic means, such as mobile or
26 digital identification cards, which have been

1 issued in accordance with regulations prescribed
 2 by the Secretary.”.

3 ~~(b) MINIMUM REQUIREMENTS FOR FEDERAL REC-~~
 4 ~~OGNITION.—Section 202 of the REAL ID Act of 2005 (di-~~
 5 ~~vision B of Public Law 109–13; 49 U.S.C. 30301 note)~~
 6 ~~is amended—~~

7 ~~(1) in subsection (a)—~~

8 ~~(A) in paragraph (2), by striking “, in con-~~
 9 ~~sultation with the Secretary of Transpor-~~
 10 ~~tation,”; and~~

11 ~~(B) by adding at the end the following:~~

12 ~~“(3) LIMITATION.—The presentation of a dig-~~
 13 ~~ital image of a driver’s license or identification card~~
 14 ~~to an official of a Federal agency may not be con-~~
 15 ~~strued to grant consent for such Federal agency—~~

16 ~~“(A) to examine any data (other than the~~
 17 ~~digital document being presented) contained on~~
 18 ~~the personal electronic device on which the li-~~
 19 ~~cence or card is displayed; or~~

20 ~~“(B) to otherwise search or seize such de-~~
 21 ~~vice.”;~~

22 ~~(2) in subsection (b)—~~

23 ~~(A) in the subsection header, by striking~~
 24 ~~“DOCUMENT” and inserting “DRIVER’S LI-~~
 25 ~~CENSE AND IDENTIFICATION CARD”;~~

1 (B) in the matter preceding paragraph (1),
 2 by inserting “, or as part of,” after “features
 3 on”;

4 (C) in paragraph (5), by inserting “, which
 5 may be taken at the time the person applies for
 6 a driver’s license or identification card or may
 7 be a digital photograph of the person that is al-
 8 ready on file with the State if the photograph
 9 was taken during the 6-year period preceding
 10 such application” before the period at the end;

11 (D) in paragraph (6), by striking “prin-
 12 ciple” and inserting “principal”; and

13 (E) in paragraph (8)—

14 (i) by striking “Physical security” and
 15 inserting “Security”; and

16 (ii) by striking “document” and in-
 17 serting “driver’s license or identification
 18 card”;

19 (3) in subsection (c)—

20 (A) in paragraph (1)—

21 (i) in subparagraph (C), by striking
 22 “Proof of the” and inserting “The”; and

23 (ii) in subparagraph (D), by striking
 24 “Documentation showing the” and insert-
 25 ing “The”;

1 (B) by redesignating paragraph (3) as
2 paragraph (4);

3 (C) by inserting after paragraph (2) the
4 following:

5 “(3) ELECTRONIC PRESENTATION OF IDENTITY
6 AND LAWFUL STATUS INFORMATION.—A State may
7 accept information required under paragraphs (1)
8 and (2) through the use of electronic transmission
9 methods if—

10 “(A) the Secretary issues regulations re-
11 garding such electronic transmission that—

12 “(i) describe the categories of infor-
13 mation eligible for electronic transmission;
14 and

15 “(ii) include measures—

16 “(I) to ensure the authenticity of
17 the information transmitted;

18 “(II) to protect personally identi-
19 fiable information; and

20 “(III) to detect and prevent iden-
21 tity fraud; and

22 “(B) the State certifies to the Department
23 of Homeland Security that its use of such elec-
24 tronic methods complies with regulations issued
25 by the Secretary.”; and

1 (D) in paragraph (4)(A), as redesignated,
 2 by striking “each document” and inserting “the
 3 information and documentation”; and
 4 (4) in subsection (d)—

5 (A) in paragraph (7), by striking “docu-
 6 ment materials and papers” and inserting “ma-
 7 terials, records, and data”;

8 (B) in paragraph (8), by striking “security
 9 clearance requirements” and inserting “back-
 10 ground checks”; and

11 (C) in paragraph (9), by striking “fraudu-
 12 lent document recognition” and inserting
 13 “fraud detection and prevention”.

14 (e) PERMANENT EXTENSION OF GRANTS TO
 15 STATES.—Section 204(b) of the REAL ID Act of 2005
 16 (division B of Public Law 109–13; 49 U.S.C. 30301 note)
 17 is amended by striking “for each of the fiscal years 2005
 18 through 2009”.

19 (d) RULEMAKING PROCEDURE.—Section 205(a) of
 20 the REAL ID Act of 2005 (division B of Public Law 109–
 21 13; 49 U.S.C. 30301 note) is amended to read as follows:

22 “(a) PROCEDURE.—At the Secretary’s discretion, the
 23 promulgation of regulations and the administration of this
 24 title may be made without regard to—

1 “(1) chapter 35 of title 44, United States Code
2 (commonly known as the ‘Paperwork Reduction
3 Act’); and

4 “(2) the notice and comment and delayed effective
5 date provisions under section 553 of title 5,
6 United States Code.”.

7 (e) NOTIFICATION OF REAL ID ACT OF 2005 RE-
8 QUIREMENTS.—The REAL ID Act of 2005 (division B of
9 Public Law 109–13; 49 U.S.C. 30301 note) is amended
10 by adding at the end the following:

11 **“SEC. 208. NOTIFICATION OF REQUIREMENTS AND DEAD-**
12 **LINES.**

13 “During the 15-month period beginning 90 days be-
14 fore the date on which Federal agencies will no longer ac-
15 cept, for official purposes, driver’s licenses and identifica-
16 tion cards that do not comply with the requirements under
17 section 202, aircraft operators and third party reservation
18 entities shall notify passengers, to the extent practicable,
19 about the requirements and enforcement deadlines under
20 this Act.”.

21 **SEC. 3. IMMEDIATE BURDEN REDUCTION MEASURES.**

22 Notwithstanding any other provision of law, begin-
23 ning on the date of the enactment of this Act, a State
24 does not need to require an applicant for a driver’s license
25 or identification card to provide separate documentation

1 of the applicant's Social Security account number or ad-
 2 dress of principal residence in order to comply with section
 3 201 of the REAL ID Act of 2005, as amended by section
 4 2(a).

5 **SECTION 1. SHORT TITLE.**

6 *This Act may be cited as the “REAL ID Moderniza-*
 7 *tion Act”.*

8 **SEC. 2. REAL ID ACT AMENDMENTS.**

9 (a) *DEFINITIONS.—Section 201 of the REAL ID Act*
 10 *of 2005 (division B of Public Law 109–13; 49 U.S.C. 30301*
 11 *note) is amended—*

12 (1) *in paragraph (1)—*

13 (A) *by striking “The term ‘driver’s license’*
 14 *means” and inserting the following: “The term*
 15 *‘driver’s license’—*

16 *“(A) means”; and*

17 (B) *by striking “Code.” and inserting the*
 18 *following: “Code; and*

19 *“(B) includes driver’s licenses stored or*
 20 *accessed via electronic means, such as mobile or*
 21 *digital driver’s licenses, which have been issued*
 22 *in accordance with regulations prescribed by the*
 23 *Secretary.”; and*

24 (2) *in paragraph (2)—*

1 (A) by striking “The term ‘identification
2 card’ means” and inserting the following: “The
3 term ‘identification card’—

4 “(A) means”; and

5 (B) by striking “State.” and inserting the
6 following: “State; and

7 “(B) includes identification cards stored or
8 accessed via electronic means, such as mobile or
9 digital identification cards, which have been
10 issued in accordance with regulations prescribed
11 by the Secretary.”.

12 (b) *MINIMUM REQUIREMENTS FOR FEDERAL REC-*
13 *OGNITION.*—Section 202 of the *REAL ID Act of 2005* (divi-
14 *sion B of Public Law 109–13; 49 U.S.C. 30301 note)* is
15 *amended—*

16 (1) in the section heading, by striking “**DOCU-**
17 **MENT**”;

18 (2) in subsection (a)—

19 (A) in paragraph (2), by striking “, in con-
20 sultation with the Secretary of Transportation,”;
21 and

22 (B) by adding at the end the following:

23 “(3) *LIMITATION.*—The presentation of digital
24 information from a mobile or digital driver’s license
25 or identification card to an official of a Federal agen-

1 *cy for an official purpose may not be construed to*
 2 *grant consent for such Federal agency to seize the*
 3 *electronic device on which the license or card is stored*
 4 *or to examine any other information contained on*
 5 *such device.”;*

6 *(3) in subsection (b)—*

7 *(A) in the subsection heading, by striking*
 8 *“DOCUMENT” and inserting “DRIVER’S LICENSE*
 9 *AND IDENTIFICATION CARD”;*

10 *(B) in the matter preceding paragraph (1),*
 11 *by inserting “, or as part of,” after “features*
 12 *on”;*

13 *(C) in paragraph (5), by inserting “, which*
 14 *may be the photograph taken by the State at the*
 15 *time the person applies for a driver’s license or*
 16 *identification card or may be a digital photo-*
 17 *graph of the person that is already on file with*
 18 *the State if the photograph was taken of the per-*
 19 *son by the State during the 6-year period pre-*
 20 *ceding such application” before the period at the*
 21 *end;*

22 *(D) in paragraph (6), by striking “prin-*
 23 *ciple” and inserting “principal”; and*

24 *(E) in paragraph (8)—*

1 (i) by striking “Physical security” and
2 inserting “Security”; and

3 (ii) by striking “document” and insert-
4 ing “driver’s license or identification card”;

5 (4) in subsection (c)—

6 (A) in paragraph (1)—

7 (i) in subparagraph (C), by striking
8 “Proof of the” and inserting “The”; and

9 (ii) in subparagraph (D), by striking
10 “Documentation showing the” and inserting
11 “The”;

12 (B) by redesignating paragraph (3) as
13 paragraph (4);

14 (C) by inserting after paragraph (2) the fol-
15 lowing:

16 “(3) *ELECTRONIC PRESENTATION OF IDENTITY*
17 *AND LAWFUL STATUS INFORMATION.*—A State may
18 accept information required under paragraphs (1)
19 and (2) through the use of electronic transmission
20 methods if—

21 “(A) the Secretary issues regulations re-
22 garding such electronic transmission that—

23 “(i) describe the categories of informa-
24 tion eligible for electronic transmission; and

25 “(ii) include measures—

1 “(I) to ensure the authenticity of
2 the information transmitted;

3 “(II) to protect personally identi-
4 fiable information; and

5 “(III) to detect and prevent iden-
6 tity fraud; and

7 “(B) the State certifies to the Department of
8 Homeland Security that its use of such electronic
9 methods complies with regulations issued by the
10 Secretary.”; and

11 (D) in paragraph (4)(A), as redesignated,
12 by striking “each document” and inserting “the
13 information and documentation”; and
14 (5) in subsection (d)—

15 (A) in paragraph (7), by striking “docu-
16 ment materials and papers” and inserting “ma-
17 terials, records, and data”;

18 (B) in paragraph (8), by striking “security
19 clearance requirements” and inserting “back-
20 ground checks”; and

21 (C) in paragraph (9), by striking “fraudu-
22 lent document recognition” and inserting “fraud
23 detection and prevention”.

1 (c) *REPEAL OF GRANTS TO STATES.*—*The REAL ID*
 2 *Act of 2005 (division B of Public Law 109–13; 49 U.S.C.*
 3 *30301 note) is amended by striking section 204.*

4 (d) *RULEMAKING PROCEDURE.*—*Section 205(a) of the*
 5 *REAL ID Act of 2005 (division B of Public Law 109–13;*
 6 *49 U.S.C. 30301 note) is amended to read as follows:*

7 “(a) *PROCEDURE.*—*At the Secretary’s discretion, the*
 8 *promulgation of regulations and the administration of this*
 9 *title may be made without regard to—*

10 “(1) *chapter 35 of title 44, United States Code*
 11 *(commonly known as the ‘Paperwork Reduction Act’);*
 12 *and*

13 “(2) *the notice and comment and delayed effec-*
 14 *tive date provisions under section 553 of title 5,*
 15 *United States Code.”.*

16 (e) *NOTIFICATION OF REAL ID ACT OF 2005 RE-*
 17 *QUIREMENTS.*—*The REAL ID Act of 2005 (division B of*
 18 *Public Law 109–13; 49 U.S.C. 30301 note) is amended by*
 19 *adding at the end the following:*

20 **“SEC. 208. NOTIFICATION OF REQUIREMENTS AND DEAD-**
 21 **LINES.**

22 *“During the 15-month period beginning 90 days before*
 23 *the date on which Federal agencies will no longer accept,*
 24 *for official purposes, driver’s licenses and identification*
 25 *cards that do not comply with the requirements under sec-*

1 *tion 202, aircraft operators and third party reservation en-*
2 *tities shall notify passengers about the requirements and en-*
3 *forcement deadlines under this Act.”.*

4 **SEC. 3. IMMEDIATE BURDEN REDUCTION MEASURES.**

5 *Notwithstanding any other provision of law (including*
6 *regulations), beginning on the date of the enactment of this*
7 *Act, a State does not need to require an applicant for a*
8 *driver’s license or identification card to provide separate*
9 *documentation of the applicant’s Social Security account*
10 *number or address of principal residence in order to comply*
11 *with the requirements of the REAL ID Act of 2005 (division*
12 *B of Public Law 109–13; 49 U.S.C. 30301 note).*

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