

116TH CONGRESS
2D SESSION

S. 4133

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, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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”.

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

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

10 (1) in paragraph (1)—

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

4 “(A) means”; and

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

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

12 (2) in paragraph (2)—

13 (A) by striking “The term ‘identification
 14 card’ means” and inserting the following: “The
 15 term ‘identification card’—

16 “(A) means”; and

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

19 “(B) includes identification cards stored or
 20 accessed via electronic means, such as mobile or
 21 digital identification cards, which have been
 22 issued in accordance with regulations prescribed
 23 by the Secretary.”.

24 (b) MINIMUM REQUIREMENTS FOR FEDERAL REC-
 25 OGNITION.—Section 202 of the REAL ID Act of 2005 (di-

1 vision B of Public Law 109–13; 49 U.S.C. 30301 note)
 2 is amended—

3 (1) in subsection (a)—

4 (A) in paragraph (2), by striking “, in con-
 5 sultation with the Secretary of Transpor-
 6 tation,”; and

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

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

12 “(A) to examine any data (other than the
 13 digital document being presented) contained on
 14 the personal electronic device on which the li-
 15 cense or card is displayed; or

16 “(B) to otherwise search or seize such de-
 17 vice.”;

18 (2) in subsection (b)—

19 (A) in the subsection header, by striking
 20 “DOCUMENT” and inserting “DRIVER’S LI-
 21 CENSE AND IDENTIFICATION CARD”;

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

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

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

10 (E) in paragraph (8)—

11 (i) by striking “Physical security” and
 12 inserting “Security”; and

13 (ii) by striking “document” and in-
 14 serting “driver’s license or identification
 15 card”;

16 (3) in subsection (c)—

17 (A) in paragraph (1)—

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

20 (ii) in subparagraph (D), by striking
 21 “Documentation showing the” and insert-
 22 ing “The”;

23 (B) by redesignating paragraph (3) as
 24 paragraph (4);

1 (C) by inserting after paragraph (2) the
2 following:

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

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

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

13 “(ii) include measures—

14 “(I) to ensure the authenticity of
15 the information transmitted;

16 “(II) to protect personally identi-
17 fiable information; and

18 “(III) to detect and prevent iden-
19 tity fraud; and

20 “(B) the State certifies to the Department
21 of Homeland Security that its use of such elec-
22 tronic methods complies with regulations issued
23 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 (c) 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 date provisions under section 553 of title 5,
 5 United States Code.”.

7 (e) NOTIFICATION OF REAL ID ACT OF 2005 REQUIREMENTS.—The REAL ID Act of 2005 (division B of
 8 Public Law 109–13; 49 U.S.C. 30301 note) is amended
 9 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 before the date on which Federal agencies will no longer accept, for official purposes, driver’s licenses and identification cards that do not comply with the requirements under
 14 section 202, aircraft operators and third party reservation
 15 entities shall notify passengers, to the extent practicable,
 16 about the requirements and enforcement deadlines under
 17 this Act.”.

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

22 Notwithstanding any other provision of law, beginning on the date of the enactment of this Act, a State
 23 does not need to require an applicant for a driver’s license
 24 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).

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