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.

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

SECTION 1. SHORT TITLE.

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

SEC. 2. REAL ID ACT AMENDMENTS.

(a) DEFINITIONS.—Section 201 of the REAL ID Act
30301 note) is amended—

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

“(A) means”; and

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

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

(2) in paragraph (2)—

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

“(A) means”; and

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

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

(b) Minimum Requirements for Federal Recognition.—Section 202 of the REAL ID Act of 2005 (di-
vision B of Public Law 109–13; 49 U.S.C. 30301 note) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking “, in consultation with the Secretary of Transportation,”; and

(B) by adding at the end the following:

“(3) LIMITATION.—The presentation of a digital image of a driver’s license or identification card to an official of a Federal agency may not be construed to grant consent for such Federal agency—

“(A) to examine any data (other than the digital document being presented) contained on the personal electronic device on which the license or card is displayed; or

“(B) to otherwise search or seize such device.”;

(2) in subsection (b)—

(A) in the subsection header, by striking “DOCUMENT” and inserting “DRIVER’S LICENSE AND IDENTIFICATION CARD”;

(B) in the matter preceding paragraph (1), by inserting “, or as part of,” after “features on”;
(C) in paragraph (5), by inserting “, which may be taken at the time the person applies for a driver’s license or identification card or may be a digital photograph of the person that is already on file with the State if the photograph was taken during the 6-year period preceding such application” before the period at the end;
(D) in paragraph (6), by striking “principal” and inserting “principal”; and
(E) in paragraph (8)—
   (i) by striking “Physical security” and inserting “Security”; and
   (ii) by striking “document” and inserting “driver’s license or identification card”;
(3) in subsection (c)—
   (A) in paragraph (1)—
      (i) in subparagraph (C), by striking “Proof of the” and inserting “The”; and
      (ii) in subparagraph (D), by striking “Documentation showing the” and inserting “The”; 
   (B) by redesignating paragraph (3) as paragraph (4);
(C) by inserting after paragraph (2) the following:

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

“(A) the Secretary issues regulations regarding such electronic transmission that—

“(i) describe the categories of information eligible for electronic transmission; and

“(ii) include measures—

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

“(II) to protect personally identifiable information; and

“(III) to detect and prevent identity fraud; and

“(B) the State certifies to the Department of Homeland Security that its use of such electronic methods complies with regulations issued by the Secretary.”; and
(D) in paragraph (4)(A), as redesignated, by striking “each document” and inserting “the information and documentation”; and

(4) in subsection (d)—

(A) in paragraph (7), by striking “document materials and papers” and inserting “materials, records, and data”; and

(B) in paragraph (8), by striking “security clearance requirements” and inserting “background checks”; and

(C) in paragraph (9), by striking “fraudulent document recognition” and inserting “fraud detection and prevention”.

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

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

“(a) PROCEDURE.—At the Secretary’s discretion, the promulgation of regulations and the administration of this title may be made without regard to—
“(1) chapter 35 of title 44, United States Code (commonly known as the ‘Paperwork Reduction Act’); and
“(2) the notice and comment and delayed effective date provisions under section 553 of title 5, United States Code.”.

(e) Notification of REAL ID Act of 2005 Requirements.—The REAL ID Act of 2005 (division B of Public Law 109–13; 49 U.S.C. 30301 note) is amended by adding at the end the following:

“SEC. 208. NOTIFICATION OF REQUIREMENTS AND DEADLINES.

“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 section 202, aircraft operators and third party reservation entities shall notify passengers, to the extent practicable, about the requirements and enforcement deadlines under this Act.”.

SEC. 3. IMMEDIATE BURDEN REDUCTION MEASURES.

Notwithstanding any other provision of law, beginning on the date of the enactment of this Act, a State does not need to require an applicant for a driver’s license or identification card to provide separate documentation
of the applicant’s Social Security account number or address of principal residence in order to comply with section 201 of the REAL ID Act of 2005, as amended by section 2(a).