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.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “REAL ID Modernization Act”:

1

2

3

4

5
SEC. 2. REAL ID ACT AMENDMENTS.

(a) DEFINITIONS.—Section 201 of the REAL ID Act of 2005 (division B of Public Law 109–13; 49 U.S.C. 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 (division 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 cons-

ultation with the Secretary of Transpor-
tation,’’; and

(B) by adding at the end the following:

‘‘(3) LIMITATION.—The presentation of a dig-

ital image of a driver’s license or identification card
to an official of a Federal agency may not be con-

structed 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 li-
cense or card is displayed; or

‘‘(B) to otherwise search or seize such de-
vice.’’;

(2) in subsection (b)—

(A) in the subsection header, by striking
‘‘DOCUMENT’’ and inserting ‘‘DRIVER’S LI-
CENSE 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 al-
ready 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 ‘‘prin-
ciple’’ and inserting ‘‘principal’’; and

(E) in paragraph (8)—

(i) by striking ‘‘Physical security’’ and
inserting ‘‘Security’’; and

(ii) by striking ‘‘document’’ and in-
serting ‘‘driver’s license or identification
card’’;

(3) in subsection (e)—

(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 insert-
ing ‘‘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 "docu-
ment materials and papers" and inserting "ma-
terials, records, and data";
(B) in paragraph (8), by striking "security
clearance requirements" and inserting "back-
ground checks"; and
(C) in paragraph (9), by striking "fraudu-
 lent document recognition" and inserting
"fraud detection and prevention".

(c) 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 ad-
dress of principal residence in order to comply with section
201 of the REAL ID Act of 2005, as amended by section
2(a).

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
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 (division B of Public Law 109–13; 49 U.S.C. 30301 note) is amended—

(1) in the section heading, by striking “DOCUMENT”;

(2) 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 digital information from a mobile or digital driver’s license or identification card to an official of a Federal agen-
cy for an official purpose may not be construed to
grant consent for such Federal agency to seize the
electronic device on which the license or card is stored
or to examine any other information contained on
such device.”;

(3) in subsection (b)—

(A) in the subsection heading, 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 the photograph taken by the State at the
time the person applies for a driver’s license or
identification card or may be a digital photo-
graph of the person that is already on file with
the State if the photograph was taken of the per-
son by the State during the 6-year period pre-
ceding such application” before the period at the
end;

(D) in paragraph (6), by striking “prin-
ciple” 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”;

(4) 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

(5) 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”.
(c) Repeal of grants to States.—The REAL ID Act of 2005 (division B of Public Law 109–13; 49 U.S.C. 30301 note) is amended by striking section 204.

(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 sec-
tion 202, aircraft operators and third party reservation en-
tities shall notify passengers about the requirements and en-
fforcement deadlines under this Act.”.

SEC. 3. IMMEDIATE BURDEN REDUCTION MEASURES.

Notwithstanding any other provision of law (including
regulations), 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 the requirements of the REAL ID Act of 2005 (division
A BILL

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

DECEMBER 7, 2020

Reported with an amendment.

Calendar No. 601

S. 4133