



Information Alert

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Real ID Final Regulations: Brief 5

Non-Compliant and Temporary Driver's Licenses and Identification Cards

This is the fifth brief in a series summarizing the final regulations for implementation of the Real ID Act of 2005. This brief focuses on the non-compliant and temporary driver's licenses (DLs) and identification cards (IDs) and relates to sections of Subparts B and F of the regulations. Brief 6 will focus on document and record retention. The final regulations, prior briefs, and other resources on Real ID are available at <http://www.ncsl.org/realid>.

Non-Compliant Real ID Driver's License and Identification Cards

The Real ID Act itself stipulates that a state complying with REAL ID that also issues non-compliant DLs and IDs must:

- clearly state on the face of the DL/ID that it may not be accepted by any federal agency for federal identification or any other official purpose; and
- use a unique design or color indicator to alert federal agency and other law enforcement personnel that the DL/ID may not be accepted for any such purpose.

NCSL, governors and motor vehicle administrators recommended that the regulations allow states to meet the requirement at reduced cost by placing a restriction code on the front of license, with clarifying language on back.

DHS is requiring that the card clearly states on its face and in the machine readable zone that it may not be accepted by any federal agency for federal identification or any other official purpose. DHS is also requiring states to incorporate a unique design or color indicator to distinguish it from the state's REAL IDs and to alert federal agencies and other law enforcement personnel that it may not be accepted for federal purposes. DHS reserves the right to approve the non-compliant cards designations during the state compliance certification process.

Temporary Driver's Licenses and Identification Cards

Under the Real ID Act, a state must issue a temporary or limited-term DL or ID if an applicant has temporary lawful status and provides evidence, verifiable through SAVE or another DHS-approved method, by presenting one of the following:

- a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;
- a pending application for asylum in the United States;

- a pending or approved application for temporary protected status in the United States;
- approved deferred action status; or
- a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.

Temporary or limited-term DLs and IDs must clearly indicate on the face of the card and in the machine-readable zone that they are temporary. The law stipulates that the date on which a temporary DL/ID expires must also be clearly indicated (see NCSL Brief #4). The temporary DLs and IDs may only be valid for the time period of the applicant's authorized stay in the United States, but not longer than the state's maximum DL/ID term. If there is no definite end period for the authorized stay, then the DL/ID shall be good for a period of one year.

A state may not reissue a temporary DL/ID unless the document of lawful presence has been extended by DHS or the person has qualified for another lawful status. A renewal of a temporary DL/ID must be in person.

NCSL, governors and motor vehicle administrators recommended that the regulations needed to clarify that the requirements of this provision apply to those deemed temporary due to limited duration of lawful presence, rather than other state-issued "temporary" licenses (e.g. medical restrictions, etc.). It was also recommended that the minimum requirement for identifying restricted license duration should be indicated as a restriction code on the front of the license, with clarifying language on back, as is standard for other license restrictions.

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