

Utah's Driver License: Implications of REAL ID and Recent State Legislation

Bagels and Briefings
2010 General Session
Utah State Legislature

Prepared by the Office of Legislative Research and General Counsel





State and Federal Legislation

- REAL ID Act of 2005
- Utah Legislation
 - ▶ S.B. 81 (2008)
 - ▶ S.B. 40 (2009)
- Western Hemisphere Travel Initiative
- Concerns
- Policy Options
- Questions?



REAL ID Provisions

- Principle provisions
 - Mandate and Official Use Prohibition
 - Minimum Card Display Requirements
 - Documentation Requirements
 - Security and Verification
 - Renewals and Expirations
 - Certification
 - Implementation Time Line
 - State Provisions



REAL ID: Mandate and Official Use Prohibition

□ Not a Mandate:

- “...a Federal agency may not accept, for any official purpose...” (sec. 205 (a)(1))
 - “Official purpose”
 - Accessing federal facilities
 - Boarding federally regulated commercial aircraft
 - Entering nuclear power plants
 - Any other purposes that the Secretary shall determine
- Federal Regulations limited the definition of “official purpose” to the purposes stated



REAL ID: Minimum Card Display Requirements

□ Minimum Card Display Requirement

Real ID requirements	Current Utah requirements
Full legal name	Name
Date of birth	Date of birth
Gender	Brief description of the person
Driver license or identification card number	Distinguishing number assigned by the division
Digital photograph	Photograph
Place of principle residence	Utah residence address
Signature	Signature
Physical security features	Impervious material, resistant to wear, damage, and alteration
Common machine-Readable Technology	Included but may need to add additional fields
Issue date	Included
Expiration date	Included
State or Territory of Issuance	Included
DHS Approved Security Marking	Not currently included



REAL ID: Documentation Requirements

- A person must show documentation that shows proof of the person's:
 - Identity
 - Date of birth
 - Social security number or ineligibility for a social security number
 - Name and address of principal residence
 - Legal/lawful presence



REAL ID: Documentation Requirements

- Acceptable documents for showing proof of identity and date of birth:
 - Valid, unexpired U.S. passport
 - Certified copy of a birth certificate filed with a State Office of Vital Statistics
 - Consular Report of Birth Abroad (CRBA)
 - Valid, unexpired **Permanent Resident Card**
 - Unexpired employment authorization document (**EAD**)
 - Unexpired foreign passport with a valid, unexpired **U.S. visa**
 - **Certificate of Naturalization**
 - **Certificate of Citizenship**
 - **REAL ID** driver's license or identification card
 - **Other** documents as DHS may designate



REAL ID: Documentation Requirements

- Acceptable documents for showing proof of social security number:
 - Social security card
 - If card is not available:
 - W-2 form
 - SSA-1099 form
 - Non-SSA-1099 form
 - Pay stub that has name and social security number on it



REAL ID: Documentation Requirements

- Acceptable documents for showing name and address of principal residence
 - At least two documents of the State's choice that include the individual's name and principal residence
 - Utah DLD accepts the following documents:
 - Bank statement (dated within 60 days)
 - Court documents
 - Current mortgage or rental contract
 - Major credit card bill (dated within 60 days)
 - Property tax notice (statement or receipt dated within one year)
 - School transcript (dated within 90 days)
 - Utility bill other than cell phone bill (billing date within 60 days)
 - Valid Utah vehicle registration or title
 - Other documents acceptable by the DLD upon review, except that only one document printed from the internet may be accepted



REAL ID: Documentation Requirements

- Acceptable documents for showing proof of legal/lawful presence:
 - Valid, unexpired U.S. **passport**
 - Certified copy of a **birth certificate** filed with a State Office of Vital Statistics
 - Consular Report of Birth Abroad (**CRBA**)
 - Valid, unexpired **Permanent Resident Card**
 - **Certificate of Naturalization**
 - **Certificate of Citizenship**
 - **Other** documents as DHS may designate



REAL ID: Security and Verification

- Division must verify documents provided
 - Regulations defined “verify” as “authenticating that a source document is genuine and has not been altered and then validating identity data contained on the document”
 - States will need access to 6 national databases to verify the validity of identification documents
 - Social Security On-Line Verification (SSOLV) (used by DLD)
 - Department of State (not established)
 - Electronic Verification and Vital Events (EVVE) (established)
 - Systematic Alien Verification for Entitlements (SAVE) (used by DLD)
 - Student and Exchange Visitor Information System (SEVIS)
 - All-State DL/ID Records System (not established)
 - States may have to pay transactional costs to access databases



REAL ID: Security and Verification

- State DMV database requirements:
 - All data fields printed on driver license
 - Driver License Number
 - Social Security Number
 - Untruncated full legal name and full name on source documents
 - Data fields included in the Machine Readable Zone
 - Motor vehicle driver's histories, including:
 - Motor vehicle violations
 - Suspensions
 - Points on driver license
 - States must protect the security of personally identifiable information



REAL ID: Security and Verification

- State must submit a security plan that protects:
 - Information in database
 - Access to physical facilities
 - Facilities used to produce cards (means no more temporary facilities)
 - Document and physical security features of cards
 - Other
- Background checks are required for employees who are involved in the manufacture or production of REAL ID driver's licenses and identification cards, or who have the ability to affect the identity information that appears on the driver's license

REAL ID: Renewal and Expirations

□ Renewals and Expirations

Issue	REAL ID Requirements	Current Utah Requirements
Regular Card: Renewal	In person every other cycle, or every cycle if personal information changes	In person every other cycle
Regular Card: Expiration	Within 8 years	5 years
Temporary Card: Renewal	Issued to immigrants with various status categories.	When lawful status changes
Temporary Card : Expiration	When lawful status changes or yearly	Up to five years, depending on document expiration; Yearly, if no document expiration
Driving Privilege Card: Renewal	None	When status changes or every cycle
Driving Privilege Card: Expiration	None	Yearly



REAL ID: Certification

- States certify compliance to DHS - Subject to DHS review at any time
- States re-certify every 3 years
 - Highest level Executive Official in the state overseeing DMV certifies
 - Letter from Attorney General certifying that the state has legal authority to impose requirements
 - Description of states exception and waiver processes
 - State's security plan



REAL ID: Implementation Time Line

- May 11, 2008 extension deadline
 - Allow time for states to become materially compliant
 - Granted to all states
 - Originally effective until December 31, 2009 but was extended
 - 46 of 56 states and territories could not meet material compliance deadline
- October 11, 2009 additional extension deadline
 - Allow time for states to become fully compliant
 - Had to be materially compliant by January 1, 2010
 - Effective until May 10, 2011
 - Utah and a few other states met deadline
- States must be fully compliant by May 10, 2011
- Re-enrollment deadlines
 - December 1, 2014 for applicants born on or after December 1, 1964
 - December 1, 2017 for all applicants



REAL ID: State Provisions

- Several states have passed legislation relating to REAL ID:

Action	2009	2008	2007
Comply	5	1	4
Refuse to Comply / Urge Congress to Act	6	7	20



REAL ID: Implications

- State must choose whether or not to comply
- Must be fully compliant by May 10, 2011
- Utah Legislature has passed REAL ID related legislation:
 - 2009 SB 40, Lawful Presence Verification for Issuance of a Driver License or Identification Card
 - 2009 HR 4, House Resolution Expressing Opposition to the Creation of a National Identification Card
 - 2007 HR 2, Resolution Opposing Real Id Act



Utah Legislation: S.B. 81

- 2008 General Session Legislation
- July 1, 2009 effective date
- Driver license and identification related provisions:
 - Generally creates limited term identification documents, including a limited term driver license
 - Allows an entity that provides an identity document to only issue the document to a:
 - United States Citizen;
 - National; or
 - Legal permanent resident alien



Utah Legislation: S.B. 40

- 2009 General Session Legislation
- Integrates driver license changes from S.B. 81 into the Uniform Driver License Act
- Requires a person to provide proof of legal presence in the U.S. to obtain a:
 - CDL
 - Identification card
 - Limited-term CDL
 - Limited-term identification card
 - Limited-term license certificate
 - Regular license certificate



Utah Legislation: S.B. 40

- January 1, 2010 effective date
- Allows DLD to make rules establishing:
 - Acceptable documentation of an applicant's SSN and proof of citizenship in the US
 - Procedures for the storage and maintenance of applicant information



Implications of S.B. 81 and S.B. 40

- As of January 1, 2010:
 - No renewal by mail/internet until 2015
 - All license certificate and identification cards must be renewed at a Driver License office
 - Estimated increase of 4,500 customers a month
 - Media has highlighted long lines
 - Proof of citizenship or lawful presence is required
 - Source documents are scanned and stored for a minimum of 10 years
- DLD created limited-term license/ID card
 - Lawfully present
 - But not a U.S. citizen, national, or permanent resident alien



Western Hemisphere Travel Initiative

- Result of the Intelligence Reform and Terrorism Prevention Act of 2004
- Effective June 1, 2009
- Governs entry or re-entry from:
 - Canada
 - Mexico
 - Bermuda
 - The Caribbean region (includes 17 nations)



Western Hemisphere Travel Initiative

- Acceptable documents for land and sea travel:
 - US Passport Book
 - US Passport Card
 - Enhanced Driver License and Enhanced Identification Card
 - Trusted Traveler Cards (NEXUS, SENTRI, or FAST)
 - Enhanced Tribal Card
 - U.S. Military Identification with Military Travel Orders
 - U.S. Merchant Mariner Document
 - Native American Tribal Photo Identification Card
 - Form I-872 American Indian Card
- US Passport Book is only acceptable document for air travel
- Age 16 and under may use a birth certificate
- **Ages 16-18** traveling under adult supervision with a school, religious group, social organization, or sports team may use a birth certificate



Western Hemisphere Travel Initiative

- Enhanced Driver License (EDL) Requirements
 - State must enter into an agreement with the DHS to develop an acceptable EDL
 - May only be issued to U.S. Citizens
 - Must have compatible technology, security criteria, and respond to Customs and Border Protection's operational concerns
 - Must include technologies that facilitate inspection at ports-of-entry
 - Must be issued in a secure process and include technology that facilitates travel to satisfy WHTI requirements
 - DHS coordinating to ensure that enhanced driver licenses will adopt standards that REAL ID requires

Western Hemisphere Travel Initiative

- States currently implementing an EDL and Enhanced Identification Card (EIC):

State	Implementation Date	EDL	EIC
Washington	January 2008	X	X
Michigan	April 2009	X	
New York	September 2008	X	X
Vermont	December 2008	X	



Concerns

- Privacy Concerns
 - Connectivity of State databases - scanned documents
 - Personal information stored by State databases - increased information and documentation
 - Protection of information stored on machine-readable technology
- Federalism Concerns
 - Competing interests
 - National identification
 - State repository for Federal information
 - Responsibility for costs



Policy Questions

- How Should Utah Proceed?
 - Continue to move towards compliance of REAL ID?
 - Refuse to comply with REAL ID?
 - Do away with lawful presence requirement?
 - Keep lawful presence requirement?
 - Continue to require all license certificate and identification card holders (renewals and new applicants) to show proof of lawful presence?
 - Change the way lawful presence requirement is implemented?
 - Only require new applicants to show proof of lawful presence?
 - Other methods?



Policy Questions

□ What Identity Documents Should Utah Provide?

- REAL ID Only
- Non-REAL ID Only
- Enhanced Driver License
- Driving Privilege Card
- Combination

□ How Should Utah Cover Compliance Costs?

- All Users
- REAL ID Users
- General Fund
- Federal Funding

Questions?
