

# HOUSE RESEARCH

## Bill Summary

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### Overview

This bill addresses Minnesota's compliance with the federal REAL ID Act of 2005 that governs various aspects of identity verification and security around driver's licenses and identification cards. Among its provisions, the bill:

- ▶ directs the Department of Public Safety to fully implement, by October 1, 2016, compliance with REAL ID Act requirements (along with repealing the current implementation ban);
- ▶ establishes both REAL ID-compliant and non-compliant versions of driver's licenses and identification cards;
- ▶ makes various statutory changes related to federal compliance, including provisions for some requirements that override administrative rules;
- ▶ prohibits departmental activity to comply with any future REAL ID Act changes in law, process, or data practices;
- ▶ appropriates \$6.27 million from the driver services operating account for implementation activities; and
- ▶ requires legislative reporting.

The REAL ID Act and its accompanying federal regulations establish various identity verification, security, data, and process requirements for state-issued driver's licenses and identification cards. A key enforcement aspect under the Act is that it currently disallows federal agencies from accepting non-compliant state identification to enter secured federal buildings and facilities (that is, those areas where identification is necessary to enter). In the future the federal law will

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also prohibit non-compliant licenses and identification cards from being accepted as an identifying document to board federally regulated commercial aircraft.

- 1 **Non-compliant license; non-compliant identification cards.** Defines terms for licenses and identification cards that do not meet the requirements of the federal REAL ID Act, for the chapter of statutes on driver licensing.
- 2 **REAL ID Act.** Defines “REAL ID Act” for the chapter of statutes on driver licensing.
- 3 **Temporary lawful status.** Defines “temporary lawful status” to use a definition from federal regulations under the REAL ID Act, for the chapter of statutes on driver licensing.
- 4 **Background investigations; driver’s license agents and certain employees.** Mandates a background check on those Department of Public Safety employees, as well as on driver’s license agents and their employees, who can modify the records of applicants and holders of a driver’s license or identification card. Provides for recovery of background check costs by the Bureau of Criminal Apprehension from the department or driver’s license agent.
- 5 **[171.019] REAL ID Act conformity; limitations.** Governs Minnesota compliance with REAL ID Act requirements.
  - Subd. 1. Definitions.** Defines a term.
  - Subd. 2. License and Minnesota identification card options.** Directs the Department of Public Safety to create both REAL ID Act compliant and non-compliant license and identification card versions, which are in addition to enhanced licenses and identification cards.
  - Subd. 3. Limitations.** Prevents the department from taking steps to implement or comply with future changes in federal law, processes, or data practices under the REAL ID Act.
  - Subd. 4. Legislative notification.** Requires a notification to the legislature regarding any impending or completed changes in federal law, processes, or data practices under the REAL ID Act.
  - Subd. 5. Statutory construction.** Establishes that, by default, reference to driver’s license includes all types of license (both compliant and non-compliant) and that reference to Minnesota identification card includes all types of identification card.
- 6 **Temporary lawful admission.** Prohibits issuance of a license or identification card if the applicant has a temporary admission status to the United States that expires within 30 days of the application.
- 7 **Application format and requirements.** Requires all applicants for a driver’s license or identification card to sign the application and declare that the information in the application is true and correct, with a penalty of perjury for false statements. Under current law a signature is required but a perjury penalty is not specified.
- 8 **Contents of application; other information.** Establishes additional documentation that must be provided as part of application for a driver’s license or identification card, including evidence demonstrating:

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- ▶ the applicant's identity, date of birth, Social Security number, or other permissible documents (that is, other accompanying documents when the applicant does not have a Social Security card);
- ▶ principal residence address in Minnesota; and
- ▶ the applicant's lawful status in the United States, which includes U.S. citizenship and various forms of temporary legal presence.

Makes technical and conforming changes related to documentation provided for enhanced licenses and identification cards.

**9 Information for applicants.** Requires the Department of Public Safety to provide information to driver's license and identification card applicants regarding the available types of cards offered, respective limitations, data sharing outside the state, and that REAL ID-compliant documents are optional. Requires a signed acknowledgement of understanding for non-compliant license or identification card applicants.

**10 [171.0605] Evidence of identity and lawful presence.** Identifies lists of acceptable documents in providing sufficient evidence to prove identity, date of birth, residence in Minnesota, and lawful presence in the United States. The requirements only apply for REAL ID-compliant licenses and identification cards (and override any conflicting administrative rules).

**Subd. 1. Scope of application.** Establishes that the section only applies for licenses and identification cards that are compliant with the REAL ID Act. The section overrides any conflicting administrative rules, but other administrative rules on driver licensing continue to apply.

**Subd. 2. Evidence; identity; date of birth.** Identifies acceptable documents for proving identity and date of birth, including a REAL ID-compliant license or identification card, a U.S. passport, a certified copy of a birth certificate, and various federally issued documentation.

**Subd. 3. Evidence; lawful status.** Identifies acceptable documents for proving lawful presence in the United States, which consist of the same documents as listed in subdivision 2.

**Subd. 4. Evidence; Social Security number.** Requires presentation of a Social Security card, or if one is not available, certain W-2 or 1099 forms (unless the applicant demonstrates non-work authorized status).

**Subd. 5. Evidence; residence in Minnesota.** Identifies acceptable documents for proving a residence address in Minnesota. Requires two documents from the listing. (The list matches those required under administrative rules to obtain an enhanced driver's license or identification card.)

**Subd. 6. Exceptions process.** Prohibits, for applicants with temporary lawful status, granting a variance from the documentation requirements following a process that is in administrative rules.

**11 License; contents and design.** Clarifies that the physical driver's license card design includes information specified in the state statutes, identifies license marking requirements,

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and requires at least 39 characters of the license holder's name. Makes a technical change, to eliminate language on license security features that is substantially reproduced in section 15.

- 12 **Design for non-compliant licenses or identification cards.** Establishes physical card marking and design requirements for noncompliant licenses and identification cards (including printing "Not for Federal Purposes" and having a unique design or indicator).
- 13 **Identification card; content and design fee.** Clarifies that the physical identification card design includes information specified in the state statutes identifies card marking requirements, and requires at least 39 characters of the card holder's name.
- 14 **Identification card expiration.** Sets the expiration for identification cards issued to seniors (age 65 or older) as (1) eight years for REAL ID-compliant cards, or (2) valid for life, for non-compliant cards. Sets the expiration for identification cards issued to people with temporary lawful presence in the United States as the last day of the person's legal stay or one year after issuance if the last day is not known. Makes technical changes.
- 15 **Security features.** Broadens the physical security features required for driver's licenses and identification cards, and makes technical changes to substantially reproduce language on security features that is removed from another section.
- 16 **Limitations.** Prevents applicants for a REAL ID-compliant license or identification card from foregoing getting a photo taken based on religious objection (so that the provision is only for a noncompliant license or identification card).
- 17 **Tribal identification card.** Prevents acceptance of tribal identification cards as among documents that can be used to prove name and identity in application for a REAL ID-compliant driver's license or identification card.
- 18 **Driver and vehicle services information system; security and auditing.** Establishes requirements for the information technology system used by Driver and Vehicle Services, including: procedures to limit authorized access; mandatory data audit trails; revocation of access upon law violations; and independent biennial auditing with reporting to the legislature. The requirements go into effect in conjunction with the new driver's license information technology system.
- 19 **Record retention; birth certificates.** Requires that driver's license and identification card applicants be able to choose retention by the department of the data contained in the birth certificate rather than retaining a physical or digital copy of the certificate (if the department's procedures include retention of a birth certificate copy).
- 20 **Non-compliant license or identification card.** Prohibits sharing data on non-compliant license or identification card holders outside the state beyond what is shared under current processes, including electronic dissemination of data, use of electronic verification systems, and sharing of information on a firearms safety designation.
- 21 **Expiration of license; military exception.** Sets the expiration for driver's licenses issued to people with temporary lawful presence in the United States as the last day of the person's legal stay or one year after issuance if the last day is not known. Makes a technical change.
- 22 **REAL ID Act implementation.** Establishes requirements and authority on REAL ID Act implementation, including an implementation date and rulemaking authority.

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**Subd. 1. Definition.** Defines “REAL ID Act” for the section, by referencing the federal law.

**Subd. 2. Full implementation and conformity; deadline.** Sets an October 1, 2016, deadline for the Department of Public Safety to fully implement conformity with REAL ID Act requirements.

**Subd. 3. Mandatory reissuance prohibition.** Prohibits the department from requiring that license and identification card holders must obtain a new license or identification card earlier than the normal expiration date of the document.

**Subd. 4. Legislative reporting.** Requires legislative reporting on REAL ID Act planning and implementation activities that consist of (1) monthly implementation status updates; and (2) final implementation information, due January 15, 2017.

**23 Appropriation.** Appropriates \$6.27 million from the driver services operating account in fiscal year 2016 for REAL ID Act compliance activities, as a onetime appropriation. (This account is part of the fee-based system that funds Driver and Vehicle Services agency operations. The money comes from a balance in the account.)

**24 Revisor’s instruction.** Makes a technical change, to move a provision on anatomical gifts to a different subdivision.

**25 Repealer.** Fully repeals the 2009 ban on REAL ID Act planning and implementation (which had been amended earlier in the 2016 session to permit planning activities).

**26 Effective date.** Makes the bill effective the day after enactment, and applies the statutory changes for application and issuance of licenses and identification cards starting October 1, 2016.