

IMPLEMENTATION AND ENFORCEMENT OF REAL ID IN TEXAS



AN ISSUE BRIEF FROM LEGISLATIVE BUDGET BOARD STAFF

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OBJECTIVE

The federal REAL ID Act of 2005 requires that all states be capable of issuing secure, tamper-resistant driver licenses and identification cards by October 10, 2016. All qualified state residents should obtain REAL ID-compliant driver licenses and ID cards no later than October 1, 2020.

KEY FACTS

- ◆ States must be REAL ID-compliant or working toward compliance by January 22, 2018, for residents to continue using driver licenses or ID cards to board commercial aircraft. Residents of noncompliant states will need an alternate form of acceptable identification to board a domestic flight after that date.
- ◆ The Texas Department of Public Safety (DPS) recently reported that the state of Texas meets 26 out of 39 REAL ID compliance requirements.

BUDGETARY IMPACT

DPS received \$8.0 million in Federal Funds from federal fiscal years 2008 to 2011. DPS estimates new costs of \$0.9 million per year to produce REAL ID-compliant driver licenses and personal identification cards for Texans.

STATUTORY REFERENCES

The Texas Transportation Code, Chapter 521, Driver's Licenses and Certificates.

The Texas Government Code, Chapter 411, Department of Public Safety of the State of Texas.

The REAL ID Act of 2005 (REAL ID) established a federal mandate requiring states to meet specific standards when issuing driver licenses and personal identification (ID) cards. The REAL ID statute requires that state-issued ID cards be made of specific materials and include security features that are difficult to duplicate. The original deadline for state compliance with REAL ID of May 11, 2008, has been extended several times. The U.S. Department of Homeland Security (DHS) announced the schedule for the final phase for air travel in January 2016. All states must be capable of issuing secure, tamper-resistant driver licenses and identification cards by October 10, 2016. All qualified state residents must obtain REAL ID-compliant driver licenses and identification cards no later than October 1, 2020. Extensions will allow states time to comply with the statutory requirements through a phased-in enforcement of REAL ID. DHS reports that as of January 2016, 23 states and territories are compliant with REAL ID, six are noncompliant, and 27 are partially compliant. Texas is among the partially compliant states.

FEDERAL REQUIREMENTS

The REAL ID program requires that states develop more secure systems for verifying a person's identity and improving security features on state-issued driver licenses and ID cards. REAL ID set minimum compliance standards for identification documents accepted by federal agencies for official purposes such as entering federal buildings, visiting nuclear facilities, and boarding airplanes. The Texas Department of Public Safety (DPS) is the designated state administrative agency for the implementation of REAL ID in Texas. REAL ID has 39 compliance requirements. DPS reported in February 2016 that Texas is noncompliant with 11 requirements, partially compliant with two requirements, and fully compliant with 26 requirements. DPS recommendations to the Eighty-fourth Legislature, 2015, resulted in Senate Bill 1934, which amended the Texas Transportation and Government Codes. These changes, related to the issuance of Texas driver licenses and ID cards, regard:

- collecting and verifying applicant Social Security numbers;
- changing issuance and renewal dates for driver licenses;
- collecting, verifying, and storing data regarding the legal residency and legal status of applicants; and
- authorizing DPS to conduct a study on the feasibility of digital identification and proof of licensure and the risks to personal data security.

Federal agencies may accept the driver licenses and ID cards issued by states that have been granted a DHS REAL ID-compliance extension. Extensions may be granted to states after the compliance deadline of October 10, 2016. States requesting extensions for dates after the October deadline must provide justification for noncompliance to DHS. States and territories that are working toward REAL ID compliance may be granted extensions.

Texas is partially compliant and has been granted an extension. DPS estimates it can begin implementing REAL ID requirements in Texas beginning in October 2016.

ENFORCEMENT OF THE REAL ID ACT

Federal enforcement was phased in beginning January 20, 2014. **Figure 1** shows the four enforcement phases for national implementation of REAL ID through October 1, 2020. On January 8, 2016, DHS issued new rules regarding commercial air travel. Starting January 22, 2018, passengers from states that are noncompliant will need alternate forms of acceptable identification to board their flights. Residents of states that are compliant or have extensions will be allowed to use their state-issued identification cards, whether or not these cards are REAL ID-compliant. All air travelers will need REAL ID-compliant licenses by October 1, 2020, or the travelers must present an alternate form of acceptable identification.

FIGURE 1
FEDERAL REAL ID ENFORCEMENT IMPLEMENTATION PHASES
FEDERAL FISCAL YEARS 2014 TO 2020

PHASE	ENFORCEMENT STARTING DATE	FULL ENFORCEMENT
1. Restricted access to U.S. Department of Homeland Security Facilities.	January 20, 2014	April 21, 2014
2. Restricted access to all federal facilities and nuclear power plants.	April 21, 2014	July 21, 2014
3. Semirestricted access to federal facilities that are available to the general public but subject to identification-based access control.	October 20, 2014	August 1, 2016
4. Restricted access to commercial aircraft. Persons without a REAL ID-compliant driver license or ID card may use a secondary form of ID, such as a U.S. passport.	January 22, 2018	October 1, 2020

SOURCE: U.S. Department of Homeland Security.

FEDERAL REAL ID FUNDING FOR TEXAS

No recent REAL ID program national implementation costs for states have been estimated. However, in fiscal year 2008, DHS estimated that REAL ID state implementation costs would be approximately \$4.0 billion nationally. Federal funding for REAL ID was originally appropriated by the U.S. Congress in federal fiscal year 2008. The funding program was renamed the Driver's License Security Grant Program (DLSGP) in the Department of Homeland Security Act of 2010. DPS reported expending \$7.9 million (out of \$8.3 million) in Federal Funds from fiscal years 2009 to 2014. In fiscal year 2010, DPS returned \$0.4 million out of \$1.7 million received in DLSGP funds to the federal government. Costs for achieving compliance benchmarks were lower than previously estimated. DPS also reported that no General Revenue Funds have been expended for the implementation of REAL ID in Texas. **Figure 2** shows the federal REAL ID funding distributed nationally and to Texas from federal fiscal years 2008 to 2011.

FIGURE 2
DRIVER LICENSE SECURITY GRANT PROGRAM FUNDING
FEDERAL FISCAL YEARS 2008 TO 2011

FEDERAL FISCAL YEAR	(IN MILLIONS)				CUMULATIVE TOTALS
	2008	2009	2010	2011	
National Distribution	\$79.9	\$48.6	\$48.0	\$45.0	\$221.4
Grants to Texas	\$3.2	\$1.6	\$1.6	\$1.5	\$8.0
Percentage Share	4.0%	3.3%	3.3%	3.3%	3.6%

NOTES: Numbers may not sum due to rounding. Federal fiscal year 2008 shows the combined amounts of REAL ID Demonstration Grants and REAL ID grants to states.
SOURCE: U.S. Department of Homeland Security.

DPS estimates a cost of approximately \$0.9 million per year to produce REAL ID-compliant licenses and ID cards for eligible Texas applicants. The DPS estimate is based on vendor card production figures of an extra \$0.15 per card more than current costs.

USEFUL REFERENCES

The National Conference of State Legislatures, Countdown to REAL ID, 2016: www.ncsl.org/research/transportation/count-down-to-real-id.aspx

The U.S. Department of Homeland Security, REAL ID Enforcement In Brief, 2016: www.dhs.gov/real-id-enforcement-brief

Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes; Final Rule; Federal Register Vol. 19, No.73, 2008: www.gpo.gov/fdsys/pkg/FR-2008-01-29/html/08-140.htm

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