



The REAL ID Act of 2005

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On May 11, President Bush signed into law the Iraq emergency spending bill (HR 1268), which includes a slightly modified version of REAL ID. Leaders in the US Senate and House of Representatives had agreed to this version of REAL ID. The House approved the bill by a 368-68 vote; the Senate vote was 100-0. **The major provisions of REAL ID include the following:**

Driver's licenses: REAL ID requires states to verify the immigration status of anyone applying for a driver's license or state ID card. Under REAL ID, any licenses or IDs that do not conform to this and other requirements will be invalid for identification purposes (including entering federal buildings and boarding airplanes). This requirement takes effect in three years. The final version, however, adds a section that **enables states to issue driver's licenses to the undocumented**, so long as those licenses clearly state that they are not valid for federal identification or official purposes, and use some color or design to distinguish them from other licenses.

Asylum: REAL ID also makes it harder for individuals fleeing persecution to win their asylum claims in the US. REAL ID requires asylum seekers to establish their persecutors' "central motive" (in effect forcing asylum seekers to read their persecutors' minds), and places a higher burden on asylum seekers to provide documents to support their claims and establish their credibility. These harsher burdens will result in more individuals being unable to gain a safe haven in the US and being forced to return to the countries where they had been jailed, tortured, or threatened.

In one favorable move, REAL ID removes the limit on the numbers of asylees who can get their green cards each year. Under the current "asylee adjustment cap," only 10,000 asylees can receive green cards (and begin to move towards US citizenship) each year. This cap had meant that asylees applying for their green cards had needed to wait up to ten years to finally become permanent residents.

Charitable contributions: REAL ID also further expands the USA PATRIOT Act's definition of "terrorist activity" that could result in deportation. Direct involvement in planning and executing terrorist attacks had already been grounds for deportation. But REAL ID now makes it a deportable offense to provide "material support" to organizations that the donor should reasonably know is involved in terrorist activity. This language takes on broader significance in light of the federal crackdown on Islamic charities, many of which have been accused of links to terrorism. REAL ID now threatens with deportation any noncitizen who contributed to such a charity, not knowing that the charity was under investigation. Other provisions: REAL ID will make it easier for the Department of Homeland Security to complete a fourteen-mile wall on the Mexican border near San Diego, despite environmental concerns. REAL ID also limits the ability of immigrants to ask federal courts to review decisions of immigration judges. In addition, the final bill includes provisions to enable more

temporary unskilled workers to enter the US under the H-2B visa program, as well as special provisions for Australian traders and nurses.

History of the bill On January 26, 2005, House Judiciary Committee Chairman F. James Sensenbrenner (R-WI) introduced the “Real ID Act” (H.R. 418), an act “to establish and rapidly implement regulations for State driver’s license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, and to ensure expeditious construction of the San Diego border fence.” The House began debate of the bill on February 9. That same day, the White House issued a written statement in favor of the passage of the bill. On a 261-161 vote, disregarding the bipartisan recommendations of the 9-11 Commission, the House passed the bill on February 10. Amendments were passed during the House floor debate “to give unprecedented power to bail bondsmen to arrest and detain immigrants in removal proceedings; to enter people convicted of using false driver’s licenses at airports into aviation security lists; and to implement a pilot program on ground surveillance technologies on the border and to strengthen communication on the border between federal, state, and local enforcement.” A week later, on February 17, the bill was recommended to the Senate committee, read twice, and then referred to the Committee on the Judiciary. Several amendments were made at this time. On March 15, the House attached this legislation to a bill allocating money for the war in Iraq. The next day, the House passed the REAL ID Act a second time as Division B of Title VII of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (H.R. 1268). On April 6, the Senate Committee on Appropriations presented H.R. 1268 to the Senate without the REAL ID Act. After much debate and numerous proffered amendments, on April 21, 2005, the Senate unanimously passed H.R. 1286 without the REAL ID provisions by a vote of 99-0. On April 25, the White House sent a letter to the lead negotiators for the House and Senate that among other things endorsed the REAL ID Act. That same week, a committee of House and Senate negotiators met in a conference to work out the difference between the House- and Senate-passed bills to fund the war in Iraq and Afghanistan. Among *Vol. 7, No. 2 May 2005* pg. 3 negotiated items was whether the REAL ID Act, which was included in the House-passed version, would be included on the final bill. On May 3, the House/Senate conference committee approved the Military Supplemental Appropriations bill with the REAL ID included. While Senate conferees won a few concessions that softened House language on some provisions, unfortunately, the bill remained pretty much the same. The bill was sent to the House for a final vote. On May 11, President Bush signed into law the Iraq emergency spending bill (HR 1268), which includes a slightly modified version of REAL ID.



Questions & Answers

What is the REAL ID Act?

On May 11, President Bush signed into law the Iraq emergency spending bill (HR 1268), which includes a slightly modified version of REAL ID. It requires states to verify the immigration status of anyone applying for a driver's license or State ID card. REAL ID also makes it harder for individual fleeing persecution to win their asylum claims in the US. Also, it makes now a deportable offense to provide "material support" to organizations that the donor should reasonably know is involved in terrorist activity.

If I am a U.S. citizen with a driver's license or state ID card, will the REAL ID Act affect me?

Yes. The bill requires all driver's licenses and state ID card applicants to prove their immigration status. This includes U.S. citizens and permanent residents, and the requirements will take affect in three years.

What happens if my license or ID does not meet the ID requirements of the bill?

State licenses or ID cards that do not conform to the requirements of the bill will be invalid for federal identification purposes, including entering federal buildings and boarding airplanes. All U.S. citizens, legal permanent residents, and refugees will receive regular driver's licenses or state ID's once their immigration status has been verified.

If I am an immigrant with a temporary visa, can I receive a license or state ID card?

Yes. Immigrants with temporary visas will receive a distinct license or ID card that expires at the same time as the visa. For those immigrants without expiration dates on their visa, licenses and ID cards will expire after one year.

If I am an undocumented immigrant, can I receive a license or MA state ID card?

No. However the bill allows states to issue driver's certificates or ID cards to undocumented immigrants if they chose to do so, though, these ID must clearly state that they are invalid for federal identification or official purposes. This includes making the licenses and ID cards a different color to distinguish them from regular licenses and ID's.

