

116TH CONGRESS  
2D SESSION

# S. 4133

To modernize the REAL ID Act of 2005, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 1, 2020

Mr. JOHNSON (for himself, Mr. PETERS, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To modernize the REAL ID Act of 2005, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “REAL ID Moderniza-  
5       tion Act”.

6       **SEC. 2. REAL ID ACT AMENDMENTS.**

7       (a) DEFINITIONS.—Section 201 of the REAL ID Act  
8       of 2005 (division B of Public Law 109–13; 49 U.S.C.  
9       30301 note) is amended—

10               (1) in paragraph (1)—

1 (A) by striking “The term ‘driver’s license’  
2 means” and inserting the following: “The term  
3 ‘driver’s license’—

4 “(A) means”; and

5 (B) by striking “Code.” and inserting the  
6 following: “Code; and

7 “(B) includes driver’s licenses stored or  
8 accessed via electronic means, such as mobile or  
9 digital driver’s licenses, which have been issued  
10 in accordance with regulations prescribed by the  
11 Secretary.”; and

12 (2) in paragraph (2)—

13 (A) by striking “The term ‘identification  
14 card’ means” and inserting the following: “The  
15 term ‘identification card’—

16 “(A) means”; and

17 (B) by striking “State.” and inserting the  
18 following: “State; and

19 “(B) includes identification cards stored or  
20 accessed via electronic means, such as mobile or  
21 digital identification cards, which have been  
22 issued in accordance with regulations prescribed  
23 by the Secretary.”.

24 (b) MINIMUM REQUIREMENTS FOR FEDERAL REC-  
25 COGNITION.—Section 202 of the REAL ID Act of 2005 (di-

1 vision B of Public Law 109–13; 49 U.S.C. 30301 note)  
2 is amended—

3 (1) in subsection (a)—

4 (A) in paragraph (2), by striking “, in con-  
5 sultation with the Secretary of Transpor-  
6 tation,”; and

7 (B) by adding at the end the following:

8 “(3) LIMITATION.—The presentation of a dig-  
9 ital image of a driver’s license or identification card  
10 to an official of a Federal agency may not be con-  
11 strued to grant consent for such Federal agency—

12 “(A) to examine any data (other than the  
13 digital document being presented) contained on  
14 the personal electronic device on which the li-  
15 cense or card is displayed; or

16 “(B) to otherwise search or seize such de-  
17 vice.”;

18 (2) in subsection (b)—

19 (A) in the subsection header, by striking  
20 “DOCUMENT” and inserting “DRIVER’S LI-  
21 CENSE AND IDENTIFICATION CARD”;

22 (B) in the matter preceding paragraph (1),  
23 by inserting “, or as part of,” after “features  
24 on”;

1 (C) in paragraph (5), by inserting “, which  
2 may be taken at the time the person applies for  
3 a driver’s license or identification card or may  
4 be a digital photograph of the person that is al-  
5 ready on file with the State if the photograph  
6 was taken during the 6-year period preceding  
7 such application” before the period at the end;

8 (D) in paragraph (6), by striking “prin-  
9 ciple” and inserting “principal”; and

10 (E) in paragraph (8)—

11 (i) by striking “Physical security” and  
12 inserting “Security”; and

13 (ii) by striking “document” and in-  
14 sserting “driver’s license or identification  
15 card”;

16 (3) in subsection (c)—

17 (A) in paragraph (1)—

18 (i) in subparagraph (C), by striking  
19 “Proof of the” and inserting “The”; and

20 (ii) in subparagraph (D), by striking  
21 “Documentation showing the” and insert-  
22 ing “The”;

23 (B) by redesignating paragraph (3) as  
24 paragraph (4);

1 (C) by inserting after paragraph (2) the  
2 following:

3 “(3) ELECTRONIC PRESENTATION OF IDENTITY  
4 AND LAWFUL STATUS INFORMATION.—A State may  
5 accept information required under paragraphs (1)  
6 and (2) through the use of electronic transmission  
7 methods if—

8 “(A) the Secretary issues regulations re-  
9 garding such electronic transmission that—

10 “(i) describe the categories of infor-  
11 mation eligible for electronic transmission;  
12 and

13 “(ii) include measures—

14 “(I) to ensure the authenticity of  
15 the information transmitted;

16 “(II) to protect personally identi-  
17 fiable information; and

18 “(III) to detect and prevent iden-  
19 tity fraud; and

20 “(B) the State certifies to the Department  
21 of Homeland Security that its use of such elec-  
22 tronic methods complies with regulations issued  
23 by the Secretary.”; and

1 (D) in paragraph (4)(A), as redesignated,  
2 by striking “each document” and inserting “the  
3 information and documentation”; and

4 (4) in subsection (d)—

5 (A) in paragraph (7), by striking “docu-  
6 ment materials and papers” and inserting “ma-  
7 terials, records, and data”;

8 (B) in paragraph (8), by striking “security  
9 clearance requirements” and inserting “back-  
10 ground checks”; and

11 (C) in paragraph (9), by striking “fraudu-  
12 lent document recognition” and inserting  
13 “fraud detection and prevention”.

14 (c) PERMANENT EXTENSION OF GRANTS TO  
15 STATES.—Section 204(b) of the REAL ID Act of 2005  
16 (division B of Public Law 109–13; 49 U.S.C. 30301 note)  
17 is amended by striking “for each of the fiscal years 2005  
18 through 2009”.

19 (d) RULEMAKING PROCEDURE.—Section 205(a) of  
20 the REAL ID Act of 2005 (division B of Public Law 109–  
21 13; 49 U.S.C. 30301 note) is amended to read as follows:

22 “(a) PROCEDURE.—At the Secretary’s discretion, the  
23 promulgation of regulations and the administration of this  
24 title may be made without regard to—



1 of the applicant's Social Security account number or ad-  
2 dress of principal residence in order to comply with section  
3 201 of the REAL ID Act of 2005, as amended by section  
4 2(a).

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