



Oregon

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DATE: June 12, 2017

TO: Joint Committee on Ways and Means
Transportation and Economic Development Subcommittee

FROM: Tom McClellan, DMV Administrator
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SUBJECT: SB 374-A, REAL ID Compliance

INTRODUCTION

The federal REAL ID Act of 2005 and subsequent regulations set standards for states' driver licenses and identification (ID) cards to be accepted for official federal purposes. Oregon is not compliant due to statutory constraints. SB 374-A addresses statutory barriers to compliance with an implementation date of July 2020. This will align with the DMV Service Transformation Program (STP).

Oregon received three extensions from the federal Department of Homeland Security (US-DHS). The most recent expired on June 6, 2017 with a short grace period until July 10, 2017. If another extension is not approved, Oregon driver licenses and ID cards will not be accepted at secure federal facilities. US-DHS is expected to act upon the department's extension request during the week of June 12-16, 2017.

BACKGROUND

REAL ID requires each U.S. jurisdiction to implement 42 specific elements for the security and reliability of its driver licenses and ID cards. Those elements cover three general topics: reliability of the underlying information leading to issuance of a card; security of the procedures and personnel of the DMV and its contractors; and the security features of cards themselves.

The penalty for non-compliance with REAL ID is the state's driver licenses and ID cards will not be recognized by federal agencies for accessing secure federal facilities (e.g., nuclear power plants; military bases) or, eventually, boarding a domestic commercial flight. Alternate acceptable identification includes a valid U.S. passport or passport card, or two forms of identification that meet criteria specified by the federal agency.

Since 2013, US-DHS has implemented the law in stages at different types of federal facilities. The final stage will be enforcement by the Transportation Security Administration (TSA) for boarding commercial domestic flights. According to that schedule, driver licenses and ID cards from non-compliant states without an extension will not be accepted by TSA on January 22, 2018. Subsequently, on October 1, 2020, any individual driver license or ID card that is not marked as REAL ID compliant will not be accepted by TSA.

In 2009, the Oregon Legislature passed SB 536. The law prevents state agencies from spending money to implement REAL ID unless federal funds are received to cover those costs and strict security measures are in place. Federal grant money for REAL ID is insufficient to reach

compliance, and competes with emergency management requests. DMV has made many improvements to its systems and processes for the sake of security, some of which had the secondary result of moving toward REAL ID compliance. Oregon has received four enforcement deferrals and the most recent one expired June 6, 2017. US-DHS has authorized a grace period for states in this situation, which expires July 10, 2017. DMV has made all the changes it can within the bounds of statutory constraints.

Oregon's driver license and ID card issuance procedures are very secure and protect against identity theft and other fraud. In some ways, protocols in Oregon go beyond federal requirements (such as facial recognition technology), but some REAL ID provisions are not met today.

There are 56 jurisdictions subject to REAL ID, including D.C. and territories. US-DHS has certified 26 as compliant. Nevada is the only state bordering Oregon that is compliant. Washington State's extension has expired and it is in the grace period. California and Idaho have extensions to October 10, 2017. (See attached U.S. map for all jurisdictions' REAL ID status.) Eight states, including Oregon, received extensions until June 6, 2017. All eight are in a "grace period" while awaiting a response from US-DHS on their extension requests.

DISCUSSION

Senate Bill 374-A would repeal SB 536 (2009), and direct DMV to provide the option of REAL ID compliant driver licenses, driver permits, and ID cards. The bill creates a two-tiered system in which the default is the credential issued under current law. For this standard card all existing requirements remain in place, such as: proof of identity, proof of Oregon residency, a valid social security number (or proof of ineligibility), and proof of legal presence in the United States. DMV checks the social security number (SSN) against a federal database to verify it matches the customer, verifies immigration documents using another federal database, and employees examine the legal presence documents to ensure they are legitimate. Once a person has established citizenship or permanent legal residency with DMV, they no longer need to present legal presence documentation at subsequent issuances.

Under SB 374-A, an applicant may choose to apply for a REAL ID compliant version of the credential. From the applicant's perspective, there will be more documents to present and a higher fee. At least for the first issuance of a REAL ID, the customer will need to show documentary proof of identity, residency, and lawful status in the U.S., even if the customer did so in the past. The applicant will also need to present an official document showing their SSN. U.S. citizens will show most of these documents only once: at initial issuance - not renewal. Any non-citizen (permanent or temporary legal residents) will need to bring in their documents every time they seek to renew or replace their driver license or ID Card. DMV will retain digital copies of these documents. The fee will be higher for a REAL ID; the bill requires DMV to set the fee to recover all implementation and on-going costs of compliance with the federal law.

It is likely that some Oregonians will not be able to meet the document requirements to obtain a REAL ID. Over eight years of administering the legal presence requirement, Oregon DMV developed standards for granting exceptions to the usual requirement of a passport or

government-issued birth certificate. This process is used rarely, but is critical to DMV's ability to look at individual circumstances and determine the person is legally present in the U.S., and to treat similarly situated people consistently. Examples of people who have benefited from the exceptions process include people born at home in the U.S. who never had a government-issued birth certificate, and people born abroad to U.S. citizen parents who never completed the process to document their child's (now customer's) citizenship. The exceptions process DMV has developed, while rigorous, might not be approved for REAL ID purposes.

From the agency's perspective, several significant changes will be taking place. DMV will make digital copies of the identity source documents proving identity, residency, lawful status, date of birth, and social security number, and will store them for at least 10 years. In addition to verifying the SSN and immigration documents against federal databases, as is currently done, DMV will also check U.S. passports and birth certificates against federal databases. DMV will also determine through a federal electronic pointer system whether the applicant has a driver license or ID card issued by another state.

Apart from the actual issuance process, several other changes will be necessary to achieve REAL ID compliant status. For example, DMV will work with its card issuance vendor on changes to the cards themselves: REAL ID-compliant cards will have a distinguishing symbol (e.g., black star); standard cards will be marked with words indicating they are not acceptable for federal identification purposes. Also, employees and contractors who have the potential to access and change customer records will be subjected to name and fingerprint-based criminal background checks, whereas today the background check is name-based only.

In the 2017-19 biennium the department will have minimal costs that will be absorbable: initial IT work, and fingerprint based employee and vendor background checks. In the 2019-21 biennium the department will have costs exclusive to REAL ID compliance. In the main these are charges for linking to the national systems that will verify passports and birth certificates, and indicate if the applicant has a credential in another state. In addition to the initial linking, these national systems charge either an annual flat fee or a fee for each look-up.

DMV will work with its IT solution vendor for STP to configure the commercial off the shelf (COTS) system to meet the requirements of the bill. Because of the timing of the session, procurement negotiations, and staging of the work to successfully deliver STP, DMV anticipates being able to issue REAL IDs in mid-2020. As noted above, the current federal enforcement schedule sets October 1, 2020, as the date when a state-issued driver license or ID card must be marked REAL ID compliant for boarding domestic flights. Otherwise, another form of identification such as a U.S. passport or passport card will be necessary.

DMV estimates 30% of Oregonians would opt for a REAL ID, and because of the timing of the enforcement schedule we anticipate an immediate influx of customers to secure the new credential once available. We anticipate updating the legislature on potential positional impacts during the 2019 session, as we will have a clearer picture of efficiencies derived from the first

roll-out (vehicles system) of STP. The goal will be to handle the REAL ID customer increase, while managing all customer wait times to acceptable levels.

The specific capabilities and business processes arising from the COTS system are several years away, so we cannot forecast the staffing needs with certainty at this time. DMV is also under contract with a separate vendor to begin producing Oregon's driver licenses and ID cards during the summer of 2018, and work is underway to collect digital images of driver-related documents instead of using microfilm. All three projects have direct relevance upon the eventual impacts of SB 374-A.

Finally, in a new development at the federal level, US-DHS Secretary John Kelly on June 6 reported to a congressional committee that he is reluctant to approve additional extensions for non-compliant states. Consequently, even with passage of SB 374-A, there is a potential that Oregon credentials will not be accepted at secure federal facilities at some time before DMV begins issuing compliant cards during the summer of 2020. Recent statements from the US-DHS indicate Secretary Kelly "is considering extensions within the broader context of the current threat environment and the need to have secure forms of identification for accessing Federal facilities and boarding commercial aircraft. He believes the time has come for full implementation and is firmly committed to enforcing the law."





SUMMARY

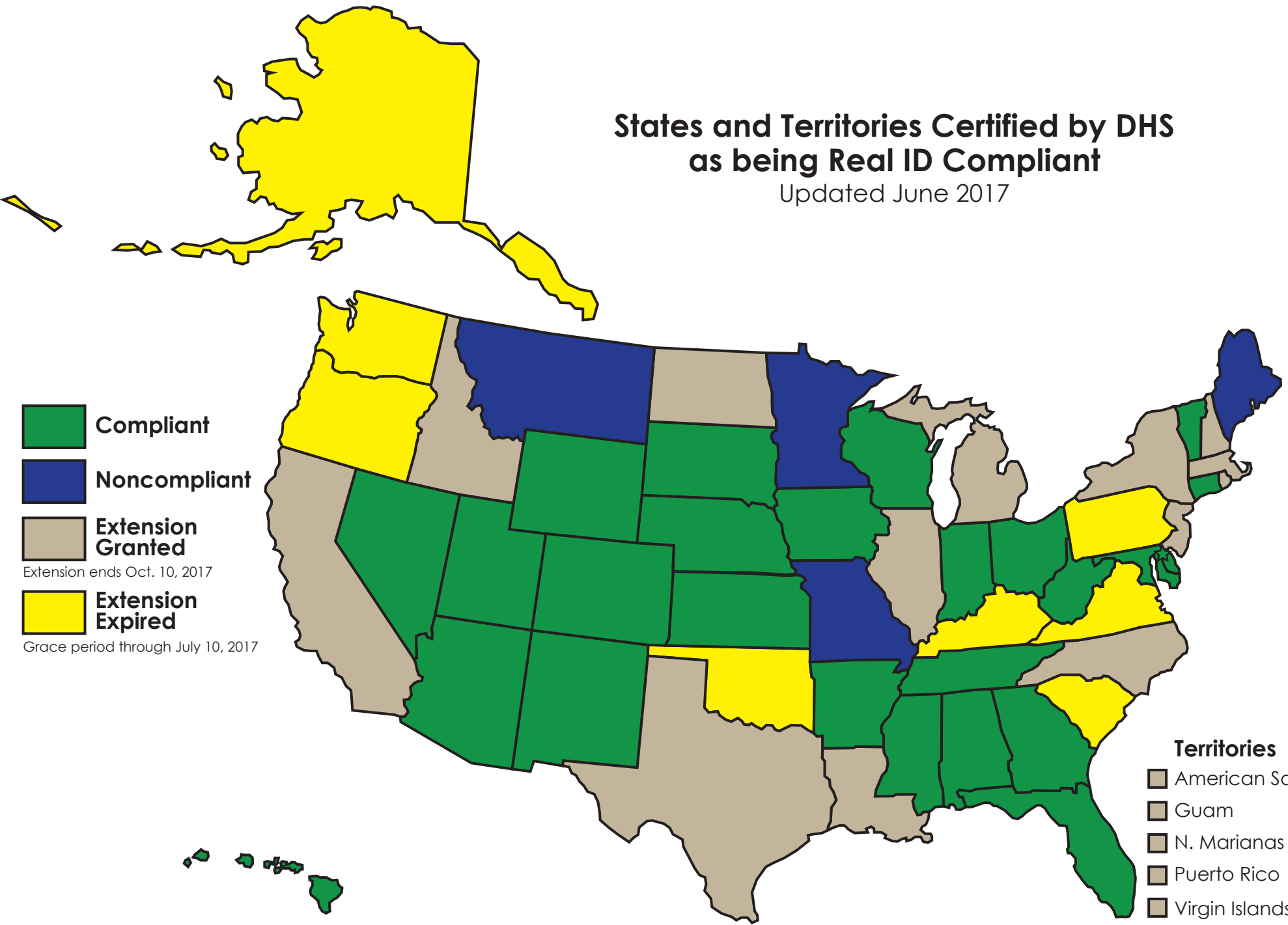
SB 374-A would provide the statutory authority to bring Oregon into compliance with REAL ID in 2020. The bill would provide Oregonians the option of a standard credential or a REAL ID-compliant version. Additional identity source documents and fees will be necessary for customers who choose a compliant card, and some Oregonians may not be able to locate or obtain the documents necessary for REAL ID issuance. DMV will electronically verify more types of documents through federal systems, and will store images of documents for 10 years.

DMV would implement this bill by working with its vendor to configure the COTS system being procured for the Service Transformation Program. DMV will update the legislature in the 2019 session regarding potential positional impacts based on efficiencies gained from STP and the anticipated influx of customers choosing to apply for a REAL ID credential. Oregon's most recent enforcement extension has expired, and we are under a grace period through July 10, 2017. Recent statements from US-DHS cast doubt on whether Oregon would receive further extensions.

States and Territories Certified by DHS as being Real ID Compliant

Updated June 2017

-  **Compliant**
-  **Noncompliant**
-  **Extension Granted**
Extension ends Oct. 10, 2017
-  **Extension Expired**
Grace period through July 10, 2017



- Territories**
-  American Samoa
 -  Guam
 -  N. Marianas
 -  Puerto Rico
 -  Virgin Islands