

# NATIONAL IMMIGRATION LAW CENTER

## Summary of the Driver's License<sup>1</sup> Provisions in the Intelligence Reform and Terrorist Prevention Act (S. 2845)

December 10, 2004

PROVISION	
<b>Minimum DL Issuance Standards</b>	<p>DOT, through the negotiated rule-making process, shall promulgate regulations that establish minimum standards for driver's licenses that shall include –</p> <ul style="list-style-type: none"> <li>◆ standards for documentation required as proof of identity of an applicant for a DL;</li> <li>◆ standards for the verifiability of documents used to obtain a DL;</li> <li>◆ standards for the processing of applications for a DL to prevent fraud;</li> <li>◆ standards for information to be included on each DL, including the person's full name, the person's date of birth, the person's gender, the person's driver's license number, a digital photograph of the person, the person's address, and the person's signature;</li> <li>◆ standards for common machine-readable identity information to be included on each DL, including defined minimum data elements;</li> <li>◆ security standards to ensure that DLs are resistant to tampering, alteration or counterfeiting and capable of accommodating and ensuring the security of a digital photograph or other unique identifier; and</li> <li>◆ a requirement that a state confiscate a DL if any component of the DL's security feature is compromised.</li> </ul>
<b>State Compliance</b>	<ul style="list-style-type: none"> <li>◆ No federal agency may accept a DL issued by a state more than two years after new requirement goes into effect unless it conforms to the minimum standards established by DOT.</li> <li>◆ The secretary of DOT can extend the date by two years if the secretary determines that the state made reasonable efforts to comply with the requirements but was unable to do so.</li> <li>◆ Each state will certify with DOT that the state is in compliance with the new requirements. The process of certifications will be established by regulation by DOT in consultation with DHS.</li> <li>◆ DOT may conduct periodic audits of each state's compliance with the requirements.</li> </ul>
<b>Negotiated Rulemaking</b>	<ul style="list-style-type: none"> <li>◆ Before publishing the proposed regulations, DOT shall establish a "negotiated rulemaking" process.</li> <li>◆ The negotiated rulemaking committee established by DOT shall include representatives from state offices that issue DLs, state elected officials, DHS, and interested parties.</li> <li>◆ Any recommendations for a proposed rule or report must be provided to DOT no later than 9 months after bill is signed into law and shall include an assessment of the benefits and costs of the recommendations.</li> <li>◆ The final rule must be promulgated by DOT no later than 18 months after the bill is signed into law.</li> </ul>
<b>Driver's License Features</b>	<p>The regulations promulgated by DOT through the negotiated rule-making process may not require a single design to which DLs issued by all states must conform.</p>

<sup>1</sup> The requirements in the Intelligence bill apply both to driver's licenses and state identification cards; however, this chart will only reference driver's licenses.

PROVISION	
<b>Information Sharing</b>	The regulations promulgated by DOT through the negotiated rule-making process shall facilitate communication between the chief driver licensing official of a state, an appropriate official of a federal agency and other relevant officials, to verify the authenticity of documents, as appropriate, issued by such federal agency or entity and presented to prove the identity of an individual.
<b>Privacy Protections</b>	The regulations promulgated by DOT shall include procedures and requirements to protect the privacy rights of individuals who apply for and hold DLs.
<b>Limitations of Federal Law</b>	The regulations promulgated by DOT through the negotiated rule-making process – <ul style="list-style-type: none"> <li>◆ may not infringe on a state's power to set criteria concerning what categories of individuals are eligible to obtain a DL from that state; and</li> <li>◆ may not require a state to comply with any such regulations that conflicts with or otherwise interferes with the full enforcement of state criteria concerning the categories of individuals that are eligible to obtain a DL.</li> </ul>
<b>Grants to States</b>	<ul style="list-style-type: none"> <li>◆ DOT shall award grants to states to assist them in conforming to minimum standards for DLs.</li> <li>◆ The amount of the grant awarded to each state will be determined by calculating the ratio of (a) the estimated average number of DLs (and identification cards) the state issues annually to (b) the average total number of DLs (and IDs) issued annually by all 50 states.</li> <li>◆ No state shall receive less than 0.5% of the grant funds made available.</li> <li>◆ Authorizes appropriations to DOT from 2005 to 2009 to carry out requirements.</li> </ul>

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