

HOUSE No. 3814

The Commonwealth of Massachusetts



CHARLES D. BAKER
GOVERNOR

OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE · BOSTON, MA 02133

KARYN POLITO
LIEUTENANT GOVERNOR

October 14, 2015

To the Honorable Senate and House of Representatives,

I am filing for your consideration a bill entitled “An Act to Permit the Issuance of REAL ID-Compliant Licenses and Identification Cards.”

This legislation is necessary to ensure that Massachusetts driver’s licenses and identification cards continue to be recognized as valid forms of identification for access to federal office buildings and by the Transportation and Security Administration for air travel.

In 2005, the federal government enacted the REAL ID Act, which followed the recommendations of the 9/11 Commission. The REAL ID Act sets security standards that are mandatory for any state driver’s license or identification card to be recognized for official, federal purposes, such as entering a federal building or boarding a commercial aircraft. The REAL ID Act also sets a deadline for states to comply with its requirements.

Like the majority of other states, Massachusetts has received an extension from the Department of Homeland Security in order to implement the legislative and regulatory changes necessary to comply with the federal requirements. That extension expires this month. In order to obtain a further extension, the Commonwealth needs to demonstrate progress toward REAL ID compliance.

This legislation is a critical step in that process. It will grant the registry of motor vehicles the authority to meet the federal requirement of issuing learner’s permits, driver’s

licenses and identification cards that have an expiration date that coincides with the applicant's authorized length of stay in the United States. Currently, under Massachusetts law, any license or identification card issued by the registrar is valid for a period of five years, regardless of the duration of the applicant's authorized length of stay in the United States. This legislation will allow a non-US citizen, with an acceptable visa status, to receive a REAL ID credential that will expire at the end of his or her authorized stay in the United States. Visitors and persons authorized to remain in the United States for less than 1 year will continue to be able to operate a motor vehicle legally in Massachusetts by carrying their foreign license.

This bill authorizes the RMV to implement changes to comply with the federal REAL ID requirements. I urge your prompt enactment of this legislation.

Sincerely,

Charles D. Baker,
Governor

HOUSE No. 3814

Message from His Excellency the Governor recommending legislation relative to to Permit the Issuance of REAL ID-Compliant Licenses and Identification Cards.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to permitting the issuance of REAL ID-compliant licenses and identification cards.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 90 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by inserting after the definition of “Killed in action”, the
3 following definition:–

4 “Lawful status” shall have the same meaning as defined in 6 CFR §37.3.

5 SECTION 2. Said section 1 of said chapter 90, as so appearing, is hereby further
6 amended by inserting after the definition of “Police officer” or “officer”, the following 2
7 definitions:–

8 “REAL ID Act”, the REAL ID Act of 2005, as codified at 49 U.S.C. Section 30301.

9 “REAL ID-compliant license or identification card”, a license or identification card
10 issued in compliance with the standards established by the U.S. Department of Homeland
11 Security at 6 CFR Part 37.

12 SECTION 3. Section 2 of said chapter 90, as so appearing, is hereby amended by
13 striking out the sixth sentence and inserting in place thereof the following sentence:–

14 Except as otherwise provided in this chapter, no registration shall be issued to a natural
15 person for a motor vehicle or trailer unless such person holds a license, identification card issued
16 under section 8E, social security number issued by Social Security Administration or proof of
17 lawful status as defined in 6 CFR §37.3 and section 1 of this chapter; provided, however, that the
18 registrar shall provide by regulation for certain exemptions from these registration requirements,
19 as applicable, for non-resident out-of-state students, certain military personnel, senior citizens
20 and disabled persons; provided, further, that the registrar may provide by regulation additional
21 exemptions which shall be consistent with this section.

22 SECTION 4. Section 8 of said chapter 90, as so appearing, is hereby amended by
23 striking out the last 4 paragraphs and inserting in place thereof the following 7 paragraphs:–

24 A license or any renewal thereof issued to an operator shall be valid from the date of
25 issuance and shall expire on a date to be determined by the registrar which may not be more than
26 60 months from the date of issue, provided that the registrar may authorize a 1-year extension of
27 the period of license validity for a licensee who has undergone medical treatment for an illness
28 resulting in temporary changes to the physical characteristics of the applicant that would be
29 apparent in an image captured by the registrar, as authorized by chapter 432 of the acts of 2014.
30 The license issued to an operator born on February 29 shall, for the purpose of this section,
31 expire on March 1. An applicant for the renewal of a license 75 years of age or older shall apply
32 for a renewal in person at a registry branch office.

33 Applications for licenses shall be in such form as may be prescribed by the registrar and
34 shall be signed by the applicant under oath. Only a resident of Massachusetts is eligible to apply
35 for a driver's license issued by the registrar. If the applicant is under age 18, the application shall
36 be accompanied by the written consent, in such form as the registrar shall determine, of a parent
37 or guardian or other person standing in place of a parent of the applicant. The photograph or
38 facial image of the applicant required to be made a part of any license issued by this section shall
39 be retained for the period required by regulations of the registrar even if a driver's license is not
40 issued.

41 The registrar may issue more than one type of license, in such form and type as may be
42 prescribed by the registrar. The registrar shall issue one type of license that is compliant with the
43 provisions of the REAL ID Act. An applicant for such license shall provide documentation and
44 demonstrate qualifications acceptable to the registrar. Massachusetts REAL ID-compliant
45 licenses shall be suitable for federal identification purposes and shall be so marked. The registrar
46 may also issue a Massachusetts license to an applicant who provides documentation and
47 demonstrates qualifications acceptable to the registrar. A Massachusetts license may not be used
48 for federal identification purposes and shall be so marked.

49 No license of any type may be issued to a person who does not have lawful status in the
50 United States; provided, however, that licenses that exist as of the effective date of this
51 paragraph may be renewed as Massachusetts licenses without the license holder providing proof
52 of lawful status or the expiration date of an authorized stay.

53 The registrar may issue a license of any type for a term of less than 60 months to a
54 resident of Massachusetts who has lawful status in the United States for a period of at least 12

55 months, provided that the expiration date of such a license shall be coterminous with the
56 expiration date of the licensee's authorized stay in the United States, as evidenced by acceptable
57 documents or information provided to the registrar. If said licensee is authorized to stay in the
58 United States for at least 12 months but lacks acceptable evidence of a specific date by which
59 such stay in the United States shall be terminated, any license issued shall expire not later than
60 12 months from the date of issue. No license of less than 60 months in duration can be renewed
61 unless the license holder provides documentation satisfactory to the registrar that he or she is
62 authorized to remain in the United States. Any such license shall have an expiration date
63 coterminous with the expiration of the authorized stay. All licenses issued for less than 60
64 months in duration shall be marked as temporary.

65 An applicant for a license under this section shall be required to answer questions on the
66 examination to determine the applicant's knowledge of the laws regarding operating a motor
67 vehicle while under the influence of alcoholic beverages or drugs or while sending or receiving
68 electronic messages, and including the relevant sections of this chapter, chapter 94C and chapter
69 138. The registrar shall determine the nature and number of such questions.

70 An applicant for a license or renewal thereof appearing in person at a registry branch
71 shall take and pass a vision test administered by the registry; provided, however, that except as
72 required by the registrar in regulations, an applicant may provide a vision screening certificate,
73 signed by an optometrist or ophthalmologist to demonstrate compliance with minimum visual
74 standards to obtain and hold a license. Such vision screening certificate shall not be deemed
75 invalid by the registrar solely because it contains an electronic signature.

76 SECTION 5. Section 8B of said chapter 90, as so appearing, is hereby amended by
77 inserting in line 42, after the word, “occurs,” the following words:– , except that no permit shall
78 be issued to an applicant for a period of time longer than the registrar determines the applicant is
79 legally authorized to remain in the United States.

80 SECTION 6. Said section 8B of said chapter 90, as so appearing, is hereby further
81 amended by striking out the last sentence and inserting in place thereof the following sentence:–

82 Notwithstanding that a learner’s permit may be valid for a period of up to 2 years, each
83 holder issued a learner’s permit with a period of validity of 2 years may take not more than 6
84 driving tests within the first year and not more than 6 driving tests within the second year and if
85 the registrar has issued a learner’s permit of less than 2 years duration, the permit holder shall be
86 limited to no more than 6 driving tests in the first year and no more than 1 driving test for each 2
87 months of remaining validity of the permit, upon payment of the fee for examination of an
88 applicant for an operator’s license as required in said section 33, for each such driving test.

89 SECTION 7. Section 8E of said chapter 90, as so appearing, is hereby amended by
90 striking out the first paragraph and inserting in place thereof the following paragraph:–

91 Any person 14 years of age or older who does not have a valid license to operate motor
92 vehicles may make application to the registrar of motor vehicles for an identification card to be
93 issued under this section. Only a resident of Massachusetts is eligible to apply for an
94 identification card issued by the registrar. The registrar shall establish criteria for such an
95 identification card by regulation.

96 SECTION 8. Said section 8E of said chapter 90, as so appearing, is hereby further
97 amended by striking out the third paragraph and inserting place thereof the following 3
98 paragraphs:–

99 An identification card or any renewal thereof issued under this section shall be valid from
100 the date of issuance and shall expire on a date to be determined by the registrar which may not be
101 more than 60 months from the date of issue, provided that the registrar may authorize a 1-year
102 extension of the period of identification card validity for an applicant who has undergone
103 medical treatment for an illness resulting in temporary changes to the physical characteristics of
104 the applicant that would be apparent in an image captured by the registrar, as authorized by
105 chapter 432 of the Acts of 2014. The identification card issued to an operator born on February
106 29 shall, for the purpose of this section, expire on March 1.

107 Applications for identification cards shall be in such form as may be prescribed by the
108 registrar and shall be signed by the applicant under oath. If the applicant is under age 18, the
109 application shall be accompanied by the written consent, in such form as the registrar shall
110 determine, of a parent or guardian or other person standing in place of a parent of the applicant.
111 The photograph or facial image of the applicant required to be made a part of any identification
112 card issued by this section shall be retained with the application for the period required by
113 regulations of the registrar even if an identification card is not issued.

114 The registrar may issue more than one type of identification card in such form and type as
115 may be prescribed by the registrar. The registrar shall issue one type of identification card which
116 is compliant with the provisions of the federal REAL ID Act. An applicant for such
117 identification card shall provide documentation acceptable to the registrar. Massachusetts REAL

118 ID-compliant identification cards shall be suitable for federal identification purposes and shall be
119 so marked. The registrar may also issue a non-REAL ID-compliant identification card, a
120 Massachusetts identification card, to an applicant who has satisfied the registrar that the
121 applicant is qualified for such card. An identification card that is not REAL ID-compliant cannot
122 be used for federal identification purposes and shall be so marked. The registrar may issue an
123 identification card of any type for a term of less than 60 months but not less than 12 months. No
124 identification card of any type may be issued under this section to a person who is legally
125 authorized to stay in the United States for less than 12 months from the date of application for
126 such card. The registrar may issue an identification card for a term of less than 60 months to a
127 resident of Massachusetts who is legally authorized to stay in the United States for a period of at
128 least 12 months, provided that the expiration date of such identification card shall be
129 coterminous with the expiration date of the applicant's authorized stay in the United States, as
130 evidenced by acceptable documents or information provided to the registrar. If said applicant is
131 authorized to stay in the United States for at least 12 months but lacks acceptable evidence of a
132 specific date by which such stay in the United States shall be terminated, any identification card
133 issued shall expire no later than 12 months from the date of issue. No identification card of less
134 than 60 months in duration can be renewed for any period unless the card holder provides
135 documentation satisfactory to the registrar that the card holder is authorized to remain in the
136 United States. Any such identification card expiration shall have an expiration date coterminous
137 with the expiration of the authorized stay. All identification cards issued for a duration of less
138 than 60 months shall be marked as temporary.

139 SECTION 9. Said chapter 90, as so appearing, is hereby amended by striking out section
140 31 and inserting in place thereof the following section:—

141 Section 31. The registrar may make rules and regulations governing the use and
142 operation of motor vehicles or trailers and the conduct of operators and chauffeurs and may
143 establish regulations to govern operator licenses, permits and identification cards and any other
144 products the registrar currently issues or which the General Court may require the registrar to
145 issue. A copy of such rules and regulations attested by the registrar shall be prima facie evidence
146 that they have been made as provided by law. This section shall not be construed as giving the
147 registrar power to regulate the speed at which motor vehicles may be operated on the public
148 ways.

149 SECTION 10. Section 34B of chapter 138 of the General Laws, as so appearing, is
150 hereby amended by inserting after the third sentence the following sentence:—

151 Any liquor purchase identification card issued by the registrar shall be labeled as “Not for
152 Federal Identification.”