

2016 Regular Session

SENATE BILL NO. 348

BY SENATOR CARTER

MOTOR VEHICLES. Provides for the issuance of REAL ID compliant driver's licenses and special identification cards. (gov sig)

AN ACT

To enact R.S. 32:410(E) and R.S. 40:1321(O) and to repeal Act No. 807 of the 2008 Regular Session of the Legislature and Act No. 151 of the 2010 Regular Session of the Legislature, relative to the issuance of driver's licenses and special identification cards in compliance with the REAL ID Act of 2005; to provide for implementation of the REAL ID Act; to provide for exceptions; to provide penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:410(E) is hereby enacted to read as follows:

§410. Form of license; photograph, signature of license, anatomical gift statement, declaration of life-sustaining procedures, and additional information in license

* * *

E.(1) The department shall provide for the issuance of driver's licenses in the manner set forth in Paragraphs (2) through (4) of this Subsection that are compliant with the standards of the REAL ID Act of 2005 and federal rules adopted pursuant thereto as of January 1, 2016, hereinafter collectively referred

1 to as REAL ID.

2 (2) Any person applying for a driver's license pursuant to the provisions
3 of this Chapter may elect to apply for a driver's license that complies with the
4 standards of REAL ID. If that person is eligible for a driver's license to be
5 issued pursuant to the provisions of this Chapter and meets all requirements of
6 the United States Department of Homeland Security for a REAL ID compliant
7 credential, that person shall be issued a driver's license which bears a United
8 States Department of Homeland Security approved security marking reflecting
9 that such credential meets REAL ID standards.

10 (3) If a person applying for a driver's license pursuant to the provisions
11 of this Chapter does not elect to apply for a driver's license that complies with
12 REAL ID standards and that person is otherwise eligible to be issued a driver's
13 license pursuant to the provisions of this Chapter, that person shall be issued a
14 driver's license which indicates the driver's license is not in compliance with
15 REAL ID. If the person has elected not to apply for a REAL ID compliant
16 driver's license, the department shall not require the applicant to comply with
17 any of the REAL ID requirements which were not required by the state as of
18 January 1, 2016. If the person has elected to not apply for a REAL ID compliant
19 driver's license, the department shall not scan or maintain a copy of the
20 applicant's documents proving his identity upon renewal. This includes but is
21 not limited to the applicant's birth certificate, social security card, or United
22 States issued passport.

23 (4) Before application, each person who applies for a Louisiana driver's
24 license shall be given a complete description of the REAL ID compliant driver's
25 license, including but not limited to an explanation of what the license does,
26 what information is collected and maintained, who has access to the data, how
27 the data will be used, his right to choose not to waive his right to privacy, and
28 if harassed, that he may take legal action, and that he is not required by the
29 state to accept the "gold star" or the REAL ID compliant driver's license. Each

1 applicant shall certify in writing that he has been given information related to
2 the issuance of the REAL ID compliant driver's license.

3 (5) No document provided by any person who applies for a Louisiana
4 driver's license shall be released to anyone physically or electronically without
5 the written permission of that person, or without a warrant issued with
6 probable cause pursuant to Article I, Section 5 of the Constitution of Louisiana.
7 The database containing scanned documents collected from persons who apply
8 for the REAL ID compliant Louisiana driver's license shall not have any
9 interoperability with any international database, any federal database, any
10 other state database, and any third-party database. Any person who illegally
11 accesses or releases the data shall be subject to a fine of not more than ten
12 thousand dollars and six months in jail for each offense.

13 (6) Compliance with REAL ID referenced in this Subsection shall be
14 limited to those standards in effect as of January 1, 2016, that do not include the
15 implementation of facial recognition software or programs, or the sharing of
16 digital photos with any entity using a facial recognition program. Any
17 subsequent changes or additions to federal laws or rules for implementation of
18 REAL ID shall be implemented by the state if and only if such changes are
19 approved by the legislature by a favorable vote of a majority of the elected
20 members of each house.

21 (7) Before January 2017, and prior to any implementation of REAL ID
22 in Louisiana, the office of motor vehicles, public safety services, within the
23 Department of Public Safety and Corrections, shall report to a joint meeting of
24 the Senate and House committees on transportation, highways and public works
25 a specific and detailed list of those standards in effect as of January 1, 2016, to
26 which compliance with REAL ID in Louisiana is limited in (7) of this
27 Subsection.

28 (8) Nothing in this Chapter and nothing in Louisiana's implementation
29 of REAL ID standards shall be construed to express or imply any delegation of

1 rights, power, or jurisdiction from the people of Louisiana to the United States
2 Department of Homeland Security or the government of the United States.
3 Regarding the office of motor vehicles, public safety services, within the
4 Department of Public Safety and Corrections, the people of this state have the
5 sole and exclusive right to govern themselves as a free and sovereign state
6 according to Article 1, Section 26 of the Constitution of Louisiana.

7 Section 2. R.S. 40:1321(O) is hereby enacted to read as follows:

8 §1321. Special identification cards; issuance; veteran designation; "I'm a Cajun"
9 designation; fees; expiration and renewal; exceptions; promulgation
10 of rules; promotion of use; persons less than twenty-one years of age;
11 the Protect and Save our Children Program; Selective Service
12 Registration

13 * * *

14 O.(1) The department shall provide for the issuance of special
15 identification cards in the manner set forth in Paragraphs (2) through (4) of this
16 Subsection that are compliant with the standards of the REAL ID Act of 2005
17 and federal rules adopted pursuant thereto as of January 1, 2016, hereinafter
18 collectively referred to as REAL ID, for official purposes.

19 (2) Any person applying for a special identification card pursuant to the
20 provisions of this Section may elect to apply for a special identification card that
21 complies with the standards of REAL ID. If that person is eligible for a special
22 identification card to be issued pursuant to the provisions of this Section and
23 meets all requirements of the United States Department of Homeland Security
24 for a REAL ID compliant credential, that person shall be issued a special
25 identification card which bears a United States Department of Homeland
26 Security approved security marking reflecting that such credential meets REAL
27 ID standards.

28 (3) If a person applying for a special identification card pursuant to the
29 provisions of this Section does not elect to apply for a license that complies with

1 REAL ID standards and that person is otherwise eligible to be issued a special
2 identification card pursuant to the provisions of this Section, that person shall
3 be issued a special identification card which indicates the special identification
4 card is not in compliance with REAL ID. If the person has elected not to apply
5 for a REAL ID compliant special identification card, the department shall not
6 require the applicant to comply with any of the REAL ID requirements which
7 were not required by the state as of January 1, 2016. If the person has elected
8 to not apply for a REAL ID compliant special identification card, the
9 department shall not scan or maintain a copy of the applicant's documents
10 proving his identity upon renewal. This includes but is not limited to the
11 applicant's birth certificate, social security card, or United States issued
12 passport.

13 (4) Before application, each person who applies for a Louisiana special
14 identification card shall be given a complete description of the REAL ID
15 compliant special identification card, including but not limited to an
16 explanation of what the card does, what information is collected and
17 maintained, who has access to the data, how the data will be used, his right to
18 choose not to waive his right to privacy, and if harassed, that he may take legal
19 action, and that he is not required by the state to accept the "gold star" or the
20 REAL ID compliant special identification card. Each applicant shall certify in
21 writing that he has been given information related to the issuance of the REAL
22 ID special identification card.

23 (5) No document provided by any person who applies for a Louisiana
24 special identification card shall be released to anyone physically or
25 electronically without the written permission of that person, or without a
26 warrant issued with probable cause pursuant to Article I, Section 5 of the
27 Constitution of Louisiana. The database containing scanned documents
28 collected from persons who apply for the REAL ID compliant Louisiana special
29 identification card shall not have any interoperability with any international

1 database, any federal database, any other state database, and any third-party
2 database. Any person who illegally accesses or releases the data shall be subject
3 to a fine of not more than ten thousand dollars and six months in jail for each
4 offense.

5 (6) Compliance with REAL ID referenced in this Subsection shall be
6 limited to those standards in effect as of January 1, 2016, that do not include the
7 implementation of facial recognition software or programs, or the sharing of
8 digital photos with any entity using a facial recognition program. Any
9 subsequent changes or additions to federal laws or rules for implementation of
10 REAL ID shall be implemented by the state if and only if such changes are
11 approved by the legislature by a favorable vote of a majority of the elected
12 members of each house.

13 (7) Before January 2017, and prior to any implementation of REAL ID
14 in Louisiana, the office of motor vehicles, public safety services, within the
15 Department of Public Safety and Corrections, shall report to a joint meeting of
16 the Senate and House committees on transportation, highways and public works
17 a specific and detailed list of those standards in effect as of January 1, 2016, to
18 which compliance with REAL ID in Louisiana is limited in (7) of this
19 Subsection.

20 (8) Nothing in this Section and nothing in Louisiana's implementation of
21 REAL ID standards shall be construed to express or imply any delegation of
22 rights, power, or jurisdiction from the people of Louisiana to the United States
23 Department of Homeland Security or the government of the United States.
24 Regarding the office of motor vehicles, public safety services, within the
25 Department of Public Safety and Corrections, the people of this state have the
26 sole and exclusive right to govern themselves as a free and sovereign state
27 according to Article 1, Section 26 of the Constitution of Louisiana.

28 Section 3. Act No. 807 of the 2008 Regular Session of the Legislature and Act No.

29 151 of the 2010 Regular Session of the Legislature are hereby repealed in their entirety.

1 Section 4. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Jerry J. Guillot.

DIGEST

SB 348 Original

2016 Regular Session

Carter

Proposed law provides for the issuance of REAL ID compliant driver's licenses and special identification cards.

Proposed law requires the issuance of driver's licenses and special identification cards in the manner set forth in existing law upon the occurrence of official notification by the U.S. Dept. of Homeland Security that, on a date certain, federal agencies will no longer accept the La. issued driver's licenses and special identification cards that are not compliant with the standards of the REAL ID Act of 2005 and federal rules adopted pursuant thereto as of Jan. 1, 2016.

Proposed law specifies that any person applying for a driver's license or special identification card pursuant to the provisions of existing law may elect to apply for a license that complies with the standards of REAL ID.

Proposed law provides that if a person is eligible for a license or special identification card to be issued pursuant to the provisions of existing law and meets all requirements of the U.S. Dept. of Homeland Security for a REAL ID compliant credential, that person shall be issued a license or special identification card which bears a U.S. Dept. of Homeland Security approved security marking reflecting that such credential meets REAL ID standards.

Proposed law specifies that if a person applying for a driver's license or special identification card pursuant to the provisions of existing law does not elect to apply for a license or special identification card that complies with REAL ID standards and that person is otherwise eligible to be issued a license or special identification card pursuant to the provisions of existing law, that person shall be issued a license or special identification card which indicates the license or special identification card is not in compliance with REAL ID.

Proposed law provides that if the person has elected not to apply for a REAL ID compliant license or special identification card, the department shall not require the applicant to, relative to labeling of the license, comply with any of the REAL ID requirements, other than those that would have been required by existing law, which were not required by the state as of Jan. 1, 2016. If the person has elected to not apply for a REAL ID compliant driver's license or special identification card, the department shall not scan or maintain a copy of the applicant's documents proving his identity upon renewal. This includes but is not limited to the applicant's birth certificate, social security card, or United States issued passports.

Proposed law provides that all persons applying for a La. driver's license shall be given a complete description of the REAL ID card, with an explanation of what the card does, what information is collected and maintained, who has access to the data, how the data will be used, that the applicant may choose to not waive their right to privacy, and that if they are harassed, they can take legal action. Each applicant shall be told that he is not required by the state to accept the "gold star" or the REAL ID. Each applicant shall certify in writing that they have been given information related to the issuance of the REAL ID.

Proposed law provides that any documents collected from a person applying for a REAL ID in La. may not be released to anyone except La. law enforcement agencies, the Dept. of Public Safety and Corrections (DPS&C), the U.S. Dept. of Homeland Security, and the FBI. The database containing information from the documents collected from applicants for the REAL ID card in La. shall not have any interoperability with any international database. Any person who illegally accesses or releases the data shall be subject to a fine of not more than \$10,000 and six months in jail for each offense.

Proposed law provides that compliance with REAL ID shall be limited to those standards in effect as of Jan. 1, 2016. Provides that any subsequent changes or additions to federal laws or rules for implementation of REAL ID shall be implemented by the state if and only if such changes are approved by the legislature by a favorable vote of a majority of the elected members of each house.

Present law (Act No. 807 of the 2008 R.S.) directs DPS&C, including the office of motor vehicles, not to implement the provisions of the REAL ID Act.

Proposed law repeals present law.

Present law (Act No. 151 of the 2010 R.S.) directs DPS&C, including the office of motor vehicles, not to implement the provisions of the PASS ID Act.

Proposed law repeals present law.

(Adds R.S. 32:410(E) and R.S. 40:1321(O); repeals Act No. 807 of the 2008 R.S. and Act No. 151 of the 2010 R.S.)