

OFFICE OF THE DIRECTOR
DEPARTMENT OF MOTOR VEHICLES
P.O. BOX 932328
SACRAMENTO, CA 94232-3280



TITLE 13: DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (department) proposes to amend Sections 15.00 and 15.01 and adopt Sections 17.00, 17.02, 17.04, and 17.06 in Article 2.0, Chapter 1, Division 1, of Title 13, California Code of Regulations, related to driver's licenses and identification cards.

PUBLIC HEARING

The department has scheduled a public hearing to provide interested parties an opportunity to provide statements, both oral and in writing, on this proposed regulatory action.

October 16, 2017
10:00 a.m.

Sierra 2 Center
Curtis Hall
2791 24th Street
Sacramento, CA 95818

The hearing venue is accessible to persons with disabilities. Parking near the hearing venue is limited, so please plan accordingly.

The public hearing will conclude when all attendees who wish to comment have provided their comment. If necessary, the department reserves the right to limit the length of time each participant has to comment.

DEADLINE FOR WRITTEN COMMENTS

Any interested party or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 p.m., **October 16, 2017**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to amend and adopt these regulations under the authority granted by Vehicle Code sections 1651, 12801.5, and *Lauderbach v. Zolin*, 35 Cal. App. 4th 578; 41 Cal. Rptr. 2d 434 (1995), in order to implement, interpret, or make specific Vehicle Code sections 681, 12800, 12800.7, 12801, 12801.5, 12505, 12506, 12509, 12509.5, 12513, 12801.6, 12801.9, 13000, 13001, and *Lauderbach v. Zolin*, 35 Cal. App. 4th 578; 41 Cal. Rptr. 2d 434 (1995).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current law authorizes the department to issue California driver's licenses and identification cards to residents of California. Vehicle Code section 12801.5, and other sections of the Vehicle Code, authorize the department to issue driver's licenses and identification cards to those who submit satisfactory proof of legal presence in the United States and proof of residency in California.

Specifically, Vehicle Code section 12801.5 empowers the department to adopt regulations that set forth the evidence or documents necessary to establish legal presence under federal law and residency in California. Additionally, effective January 1, 2018, the Vehicle Code recognizes the "Real ID driver's license or identification card", defined in Vehicle Code section 681 as a card that is issued by any state and complies with the federal Real ID Act of 2005 (P.L. 109-13). The REAL ID Act is a federal law that sets minimum standards for identity verification and security features that States must utilize if their driver's licenses or identification cards are to be accepted "for official purposes" such as boarding federally regulated commercial aircraft, accessing federal facilities, and entering nuclear power plants. State laws regarding driving skill, testing, etc., are not part of the REAL ID Act requirements. The federal regulations provide States wishing to issue REAL ID compliant driver's licenses or identification cards to select among various methods of meeting the federally acceptable standards. Also effective January 1, 2018, the department may only issue one REAL ID compliant driver's license or identification card to each individual pursuant to Vehicle Code section 12805.

This proposed adoption sets forth the department's implementation of the federal identification and residency standards in the REAL ID Act of 2005 so that a person desiring a REAL ID compliant card may obtain one. Given its authority under Vehicle Code section 12801.5 to adopt regulations to implement and make specific the legal presence and proof of residency requirements for a driver's license or identification card, the department herein proposed to adopt separate requirements for Californians desiring a REAL ID compliant license or identification card. Also, these proposals modify the existing legacy residency requirements to alleviate difficulty experienced by transient, homeless, and foster youth populations in proving they are California residents.

Problems the Department Intends to Address Through These Proposals:

1. Proof of residency for Californians with insecure or unstable housing

Documentation requirements for proof of residency adversely affect transient, homeless, and foster youth populations who have insecurity in maintaining housing. Current regulations specify the documents required to prove residency in California must include the name of the applicant and the address used on the application. The regulations require two documents to establish residency, such as a utility bill or lease agreement. This may reduce access to a driver's license or identification card for those individuals who share housing or who frequently change addresses, such as students. Also, at this time, there is no procedure in place for minors who do not reside with a custodial parent or legal guardian to prove they are California residents. This limits the ability for foster youth, or children who do not reside with a custodial parent, to obtain a driver's license or identification card. Additionally, homeless applicants who supply a DL 933 to establish eligibility for a free identification card under Vehicle Code section 14902 may struggle to meet the residency documentation requirements as they lack the housing stability necessary to obtain acceptable residency documents. This proposal addresses these hurdles to obtaining a driver's license or identification card by adopting regulations that permit

additional documentation be used to establish California residency and by reducing the number of documents to be produced to one.

2. *Californians who seek a REAL ID compliant driver's licenses or identification card*
Californians desiring REAL ID compliant driver's licenses or identification cards for access to federal installations or to board commercial airplane flights cannot obtain one. The REAL ID Act, Public Law 109–13, 119 Stat. 302, was enacted May 11, 2005 to address security concerns following investigations after the terrorist attacks of September 11, 2001. The Act limits access to federal facilities, including airport boarding areas, to only those individuals with specified identification, such as a passport, or a driver's license or identification card issued by a State that adopts more restrictive identity requirements for issuing a card than traditionally used in legacy license and identification cards in many States. These enhanced identity proof requirements render a card issued to be "REAL ID compliant" and afford the bearer freer access to federal facilities and through federal airport security screening, for example. Federal regulations implementing the Act were finalized and published on January 29, 2008 at Title 6 Code of Federal Regulations Part 37. Beginning January 22, 2018, Department of Homeland Security (DHS) has authorized the Transportation Security Administration (TSA) to begin enforcing REAL ID at airport security screening checkpoints. Thus, by that date, TSA will not accept state-issued driver's licenses or identification cards from states that are not compliant with REAL ID Act requirements. Full compliance is required for all states by October 2020.

The California Legislature and the department have taken steps to show progress on full compliance in order for California's driver's license and identification card to continue to be accepted as identification for federal purposes. For example, the state has adopted statutes and regulations authorizing the department to require proof of residency. The department has updated policies for scanning and storing documentation produced with an application for a license or card. The legislature has adopted Vehicle Code sections 681 and 12805 that define a REAL ID compliant card and prohibit the department from issuing one to a person who already has one, effectively limiting each Californian to one REAL ID compliant card. DHS can deny future extensions of the implementation date, leading to federal authorities, such as the TSA, rejecting the use of California's legacy driver's license and identification card for access through airports. These regulations set forth procedures and requirements to enable Californians who desire one to obtain a REAL ID compliant driver's license or identification card. The federal requirements in Title 6, CFR Part 37 permit each State to make some limited choices in how the requirements will be implemented. These proposals adopt the set of requirements that the department has determined comply with the REAL ID regulations in Part 37, and meet the needs of California and the department to have an efficient and effective REAL ID card option.

Effect of the Proposed Rulemaking

Under the proposed rulemaking, Californians will be able to apply for and receive a driver's license or identification card that is compliant with the REAL ID Act. Californians will avoid interruptions to travel on federally regulated commercial flights and other federal facilities without the need to carry their passport. The proposed rulemaking also amends the requirements for proof of residency in order to make the application process less onerous on Californians experiencing housing insecurity.

Anticipated Benefits and Broad Objectives of the Proposals

The proposed regulations create several anticipated benefits to the general welfare of California residents. Californians will be able to choose the driver's license or identification card that best fits their needs. For Californians who do not require a REAL ID Act compliant card, the current application process is largely unchanged. Where the process is proposed to be amended, the residence proof requirements will be less burdensome for Californians and will reduce the number of visits to a department field office required for an individual to complete an applicant with supporting documentation. For Californians who want a REAL ID Act compliant card, the regulations establish the requirements for issuance. With a compliant driver's license or identification card, Californians will avoid the denial of travelling on federally regulated commercial flights and access to federal facilities.

Specific changes are as follows:

- Amended Section 15.00 removes the subcategories of "citizens" and "immigrants" who are all able to document their lawful presence under federal law. The revision simply lists all currently suitable documents for a California legacy DL/ID card. This change has no regulatory effect.
- Amended Section 15.01(a) permits residency to be established by the presentation of one document of the listed type rather than two.
- New Section 15.01(c) identifies the means for a minor to trace his or her relationship to the individual to whom a residency document has been addressed through a Group Home Agreement form, Foster Family Agency Agreement, or Foster Parent Agreement by providing the department with alternative documentation from a county department administering foster care programs or the California Department of Social Services.
- New Section 15.01(d)(21) identifies an additional document for proof of residency for homeless applicants.
- New Section 17.00 establishes the procedure for obtaining a REAL ID compliant DL/ID card.
- New Section 17.02 establishes the documentation required to show proof of legal presence and identity for a REAL ID compliant DL/ID card.
- New Section 17.04 establishes the documentation required to show proof of social security number for a REAL ID compliant DL/ID card.
- New Section 17.06 establishes a process by which applicants can request an exception to the documentation requirement in order to prove citizenship.

CONSISTENCY AND COMPATIBILITY WITH STATE REGULATIONS

The department has determined that this proposed action is neither inconsistent nor incompatible with other state regulations. The department conducted a review of other regulations and has determined that there are no other regulations related to issuance of driver's licenses and identification cards for applicants who can establish legal presence.

COMPARABLE FEDERAL STATUTES OR REGULATIONS

There are no comparable state regulations. Comparable federal regulations determine the requirements for a REAL ID compliant driver's license or identification card, and those regulations are consistent with these proposals. (6 C.F.R. 37 et seq.)

DOCUMENTS INCORPORATED BY REFERENCE

There following document is incorporated by reference:

- REAL ID Exception Process Application, DL 206 (New 1/2018)

This document will not be published in the California Code of Regulations because it would be impractical and cumbersome to do so; however, the document is readily available to interested parties on the department's website or by contacting the department representative identified below.

FEDERAL LAW OR REGULATION MANDATE

These regulations are not mandated by federal law or regulations.

LOCAL AGENCY/SCHOOL DISTRICT MANDATE

The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

ECONOMIC AND FISCAL IMPACT DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- *Cost or Savings to Any State Agency:* None
- *Other Non-Discretionary Cost or Savings to Local Agencies:* None.
- *Costs or Savings in Federal Funding to the State:* None.
- *Effects on Housing Costs:* None.
- *Impacts Directly Affecting Businesses:* The proposal will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

- *Cost Impact on Representative Private Persons or Businesses:* The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- *Small Business Impact:* This regulation will not have an economic or fiscal impact on small business because the proposed action only impacts the driver's license issuance process.

Results of the Economic Impact Statement:

The department has prepared the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1), and included it in the initial statement of reasons.

The department has determined that this proposed regulatory action will not, 1) create nor eliminate jobs in the State of California, 2) eliminate existing businesses nor create or expand business in the State of California, 3) expand businesses currently doing business in California, as the regulations identify documentation requirements that an applicant must submit to be issued a driver's license or identification card or a Real ID compliant driver's license or identification card. None of the provisions in this proposed action are intended to impact businesses in California.

This action is not likely to impact worker safety, the State's environment or health. It may create a positive impact to the welfare of California residents because the regulatory action will be in compliance with Federal Real ID requirements, ensuring California residents' continued access to federal buildings and commercial aircraft.

PUBLIC DISCUSSION OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Brian G. Soublet, Chief Counsel/Deputy Director
Department of Motor Vehicles
Legal Affairs Division
P.O. Box 932382, MS C-244
Sacramento, CA 94232-3820

Any inquiries or comments concerning the proposed rulemaking action requiring more immediate response may use:

Telephone: (916) 657-6469
Facsimile: (916) 657-6243
E-Mail: LADRegulations@dmv.ca.gov

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

Randi Calkins, Regulations Analyst
Department of Motor Vehicles
Telephone: (916) 657-8898

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an Initial Statement of Reasons for the proposed regulatory action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the Express Terms of the proposed regulatory action using underline or italics to indicate additions to, and strikeout to indicate deletions from the California Code of Regulations.

The contact person identified in this notice shall also make available to the public, upon request, the Final Statement of Reasons and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (the Notice of Proposed Regulatory Action, the Initial Statement of Reasons, and Express Terms) may be accessed at <https://www.dmv.ca.gov/portal/dmv/detail/about/lad/regactions>.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Request for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.