



# Transportation Interim Committee

## 66th Montana Legislature

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TO: Transportation Interim Committee members

FR: Transportation Interim Committee staff

In April 2019 the Montana Department of Justice's Motor Vehicle Division (MVD) was notified by the U.S. Department of Homeland Security that the state is in full compliance with the REAL ID Act and regulation.

The Montana Legislature passed a law in 2007 against the federal REAL ID Act of 2005, citing concerns about federal overreach. Montana was one of 15 states that initially resisted the law. During the 2017 Legislative Session, Montana's legislature adopted Senate Bill No. 366 and directed MVD to create an optional driver license that complies with the act. In January 2019, MVD began issuing compliant credentials for Montanans who choose to obtain them. Previously, Montana received two year-long extensions from the U.S. Department of Homeland Security for REAL ID implementation.

The law passed and approved in 2017 established contingencies based on potential future, federal extensions for compliance. Now that Montana complies with the federal law, Montana's statute is out-of-date. Draft legislation proposed cleans up those dates. The draft legislation is attached for the Transportation Interim Committee's review and discussion.

Federal agencies and the Transportation Security Administration will continue to accept valid Montana driver licenses and ID cards to board domestic commercial flights and access secure federal facilities until October 1, 2020. Beginning October 2020, only Montana licenses and ID cards that are REAL ID compliant will be accepted to board domestic commercial flights or enter secure federal facilities.

As part of its ongoing efforts to inform the public about REAL ID, MVD also hosts a [mtrealid.gov](http://mtrealid.gov) website, which provides answers to frequently asked questions and allows interested individuals to sign up for MVD appointments to obtain a REAL ID compliant license or ID.

~~**61-5-128.**—(Temporary) **Legislative direction to state agency to implement REAL ID Act.** The state of Montana shall participate in the implementation of the REAL ID Act of 2005, Public Law 109-13. The department, including the motor vehicle division of the department, is directed to implement the provisions of the REAL ID Act of 2005. (Void on occurrence of contingency—sec. 8, Ch. 443, L. 2017.)~~

~~**61-5-128.**—(Effective on occurrence of contingency) **Legislative finding and direction to state agency not to implement REAL ID Act.** (1) The legislature finds that the enactment into law by the U.S. congress of the REAL ID Act of 2005, as part of Public Law 109-13, is inimical to the security and well being of the people of Montana, will cause unneeded expense and inconvenience to those people, and was adopted by the U.S. congress in violation of the principles of federalism contained in the 10th amendment to the U.S. constitution.~~

~~(2) The state of Montana will not participate in the implementation of the REAL ID Act of 2005. The department, including the motor vehicle division of the department, is directed not to implement the provisions of the REAL ID Act of 2005 and to report to the governor any attempt by agencies or agents of the U.S. department of homeland security to secure the implementation of the REAL ID Act of 2005 through the operations of that division and department.~~

~~**61-5-129.** (Temporary) **REAL ID-compliant driver's license or identification card -- voluntary application.** (1) The department shall issue a Montana driver's license or identification card that complies with the requirements of the federal REAL ID Act of 2005, Public Law 109-13, to each qualifying applicant.~~

~~(2) (a) When required to obtain a Montana driver's license or identification card, a person may choose to apply for either a standard driver's license or identification card, or for a REAL ID-compliant driver's license or REAL ID-compliant identification card.~~

~~(b) A person may not hold a valid standard driver's license or identification card and a valid REAL ID-compliant driver's license or identification card at the same time.~~

~~(3) (a) A REAL ID-compliant driver's license issued pursuant to this section is subject to the other requirements of obtaining, renewing, and using a standard driver's license issued pursuant to this chapter.~~

~~(b) A REAL ID-compliant identification card issued pursuant to this section is subject to the other requirements of obtaining, renewing, and using a standard identification card issued pursuant to Title 61, chapter 12, part 5, and this chapter.~~

~~(4) (a) In addition to the fees charged to apply for or renew a standard driver's license under **61-5-111(6)** and the fees charged to apply for a standard identification card under **61-12-504**, the department may charge the following additional fees:~~

~~(i) for a person who is applying for a REAL ID-compliant driver's license or identification card during a renewal period specified in **61-5-111(3)(c)**, the additional fee is \$25;~~

~~(ii) for a person who is applying for a REAL ID-compliant driver's license or identification card prior to the renewal period specified in **61-5-111(3)(c)**, the additional fee is \$50; and~~

~~(iii) for a person who renews a standard driver's license or a standard identification card under **61-5-111(3)(c)** between June 1, 2017, through December 31, 2017, and is applying for a REAL ID-compliant driver's license or identification card between January 1, 2018, and June 30, 2018, the additional fee is \$25.~~

~~(b) The fees collected under this subsection (4) must be deposited in the state special revenue fund to be used to fund the equipment and staffing necessary to provide REAL ID-compliant driver's licenses and identification cards. (Void on occurrence of contingency—sec. 8, Ch. 443, L. 2017.)~~