



FEDERATION FOR AMERICAN IMMIGRATION REFORM

COMPARING REAL ID AND PASS ID

*REAL ID Provides Real Security, While PASS ID Provides Only
A False Sense Of Security*

July 10, 2009

In response to the 9/11 terrorist attacks, Congress passed the REAL ID Act in 2005 to establish uniform security requirements for State-issued drivers' licenses and identification cards.ⁱ On June 15, 2009, Senator Daniel Akaka (D-Hawaii) introduced legislation (S. 1261) entitled "Providing for Additional Security in States' Identification Act of 2009" (PASS ID). PASS ID will gut the security provisions of REAL ID and re-establish many of the loopholes that allowed the 9/11 hijackers to carry out the attack on the Pentagon and the World Trade Center. This document explains some of the key differences between REAL ID and PASS ID.

	REAL ID — Real Security	PASS ID — False Security
<i>"Materially Compliant" Sec. 241(3)</i>	DHS Secretary determines whether a State is "materially compliant" (meeting the security requirements) with respect to the issuance of drivers' licenses and ID cards ("secure IDs").	Allows States to self-certify material compliance. Accordingly, PASS ID fails to ensure material compliance and to create a uniform standard for the issuance of secure IDs in each State.
<i>"Official Purpose" Section 241(4)</i>	Requires individuals to present a secure ID for any "official purpose." Official purpose includes: (1) accessing all Federal facilities, (2) accessing nuclear facilities, and (3) boarding commercial aircraft. (See "Boarding Commercial Aircraft" below). Also gives DHS flexibility to respond to emerging and actionable threats by allowing the Secretary to designate additional "official purposes" which necessitate presentation of a secure ID.	Narrows definition of Federal facilities to include only facilities "mission critical" to "homeland security, national security or defense." (Retains nuclear facility language.) Terrorist threats do not exist solely against a homeland or defense target. This loophole could allow terrorists to enter non-mission critical targets to engage in surveillance to launch a future attack. Also eliminates DHS' ability to designate additional official purposes, thus reducing government's ability to respond to known, actionable threats.
<i>Boarding Commercial Aircraft Section 242(a)(1)(B)</i>	Includes as an "official purpose" the presentation of a secure ID to board "federally regulated commercial aircraft."	Retains REAL ID language regarding boarding flights but renders it meaningless by also stating "no person shall be denied boarding... solely on the basis of failure to present [a secure ID]." Had PASS ID been law on 9/11, the hijackers could likely still have boarded their flights.
<i>Name Requirements Section 242(b)(2)</i>	Requires that a secure ID include a person's "full legal name." This requires that an applicant for an ID provide documentation proving their first, middle and last name.	Requires an ID to include only a person's first and last name ("legal name"). This creates the same serious security loophole that existed on 9/11. In the case of 9/11 hijacker Mohamed Atta, his full legal name was "Muhammad 'Ata as-Sayyid." Atta obtained a U.S. visa under the name "Mohamed Mohamed Elamir" on May 18, 2000 and a Florida driver's license under the name "Mohamed Atta" on May 2, 2001. PASS ID would have allowed the issuance of a secure ID to Atta for each of his 17 known aliases. ⁱⁱ
<i>Secure IDs for Illegal Aliens Section 242(c)(2)</i>	Limits issuance of secure IDs only to: (1) U.S. citizens and nationals; (2) lawful permanent residents and temporary residents; and (3) legal immigrants in certain limited categories provided, in most cases, their status as a legal immigrant has already been determined or adjudicated by immigration officials.	Dramatically expands the classification of people eligible for a secure ID. For example, PASS ID would permit issuance of a secure ID to an illegal alien who had previous work authorization but overstayed a visa, or to any illegal alien who files a frivolous application for withholding of removal. Gives broad "unreviewable discretion" to the Secretary to expand eligibility for a secure ID and to determine who meets the eligibility criteria.

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<i>Certifying Other Documents Section 242(a)(4)</i>	Establishes clear, consistent and transparent standards for the issuance of secure IDs. REAL ID establishes clear standards for the issuance of secure IDs that are consistently applied in every State in a transparent manner so that secure IDs are distinct from non-secure IDs. Does not grant the Secretary the authority to certify as secure other forms of ID (including non-secure IDs).	Allows the Secretary to certify “any driver’s license or identification card” as secure. Does not require an ID to conform to clear, consistent and transparent standards before the Secretary’s certification. Accordingly, the Secretary could certify as secure IDs which are typically only given to illegal aliens, such as those issued by a local government (Oakland, CA or New Haven, CT ⁱⁱⁱ) or Mexico’s “Matricula Consular” card.
<i>State Verification of Source Documents Section 242(c)(3)</i>	Requires States to “verify... the issuance, validity and completeness” of source documents presented by an applicant before a secure ID is issued to that individual.	Eliminates the State verification requirement altogether. Accordingly, so-called “secure IDs” will be issued without verification that presented documents are valid. This will allow people who present false documentation, including illegal aliens, to obtain a “secure ID” without anyone ever verifying the validity of the documentation.
<i>Privacy Standards Section 242(d)(7)</i>	REAL ID’s regulations ensure that the privacy of individuals will be protected. ^{iv}	Adds statutory privacy language that does not enhance privacy protections beyond current regulations. Requires public disclosure of privacy measures taken which could actually lead to inadvertent disclosures.
<i>Non-Secure ID Standards Section 242(d)</i>	Requires that a non-secure ID “clearly state on its face” that the ID may not be accepted for any official purpose. Also requires that non-secure IDs have a design and color scheme that differs from the design of a State’s secure ID. Requires connectivity between State databases.	Eliminates these requirements. Accordingly, on their face, a secure ID and non-secure ID would look identical, making it impossible for law enforcement, security officers, or employers to differentiate between secure and non-secure forms of ID. This could allow illegal aliens who obtain non-secure, State issued IDs to use those IDs to illegally obtain a job.
<i>Exceptions Process Section 242(e)</i>	Establishes clear, consistent and transparent requirements for the issuance of secure IDs. Ensures uniformity among States.	Creates an exceptions process that gives States authority to issue IDs even to people who fail to “present necessary documents.” Accordingly, this provision undermines secure ID requirements and creates a further lack of uniformity in ID standards.
<i>Grants to States Section 244</i>	Establishes a grant program to assist States “in conforming to the minimum standards” of the Act.”	Establishes a new grant formula that does not distinguish between secure and non-secure IDs. Accordingly, the formula would actually reward a State for each non-secure ID it issues, including to illegal aliens. This formula fails to reimburse States for the cost of establishing a secure ID system.

ⁱ [Public Law 109-13](#). Regulations promulgated pursuant to REAL ID can be found at [6 C.F.R. 37](#).

ⁱⁱ 9/11 Commission [Staff Statements](#), FBI [Press Release](#), September 27, 2001, and [Answers.com](#).

ⁱⁱⁱ *Los Angeles Times*, “Oakland to Offer Identity Cards to Illegal Immigrants,” June 5, 2009, and *FOXNews*, “New Haven Becomes First City in U.S. to Offer ID Cards to Illegal Immigrants,” July 24, 2007.

^{iv} See 6 CFR 37.41(b)(2).