

**Real Costs:
Assessing the Financial Impact of the Real ID Act
on the States**

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Introduction

Determining the true cost of the federal and state government's implementation and compliance with the Real ID Act of 2005, Pub. L. No. 109-13, is a matter of significant public concern.¹ This federal mandate to standardize drivers' licenses is a substantial unfunded mandate imposed on the states that will have a direct effect on almost every individual in the country. It is impossible to evaluate that effect without an understanding of its fiscal impact.

Unfortunately, compiling a national estimate for the cost of the Real ID Act ("the Act") is difficult. All 50 states and the District of Columbia have different requirements for licensing and the variance is substantial, as reported recently in American Association of Motor Vehicle Administrator 50-state surveys.² REAL ID will present unique challenges in each state. Some states issue and produce licenses directly on site; others rely on a central system; while still others use third parties or the local courts as licensers. Some states utilize modern computers and software; others rely on legacy systems that date back to the 1960s. Other states issue different types of licenses depending on the status of the license seeker – under-18 years of age or non-citizen for example. Many states' requirements changed over time, so that many license holders remain grandfathered in older systems and are never required to comply with newer requirements when they renewed their licenses.

Additionally, many of the systems that states believe they will need to comply with the Act do not exist. For example, many states believe that they will need to build a national system in order to verify electronically the authenticity of birth certificates. No such system exists. The Act also requires all states to link their motor vehicle databases, but currently no such wide scale links between state databases exist. Both systems must be built for the Act to be fully implemented.

Finally, the Act does not spell out many of the steps states must take to meet the licensing requirements it imposes. Major questions include: How will states verify source documents?; What technology and standards will states use to link databases?; and, How much standardization of motor vehicle information will be required to comply with the Act? Some of these questions may be answered when the Department of Homeland Security ("DHS") issues its regulations to the states implementing the Act.

¹ This white paper only attempts to identify those REAL ID Act mandates creating significant costs for both the states and federal government, it does not attempt to quantify the substantial costs that states will require individual taxpayers and licensees to incur. It is expected that states will pass along such costs in the form of higher taxes, user fees, and license charges.

² Much of the information that forms the basis for this cost template comes from the 50-state survey the American Association of Motor Vehicle Administrators (hereafter abbreviated as "AAMVA") conducted as part of their effort to assess the steps necessary to comply with the Real ID Act of 2005. Unless otherwise noted the information on the needs and problems in individual states comes from the survey responses completed by motor vehicle departments in those individual states. This survey information is available on the web at www.realnightmare.org. The author did not have access to the survey results from North Carolina, Texas and Wyoming.

Unfortunately, while the Act passed in May 2005, these regulations have not yet been issued and it is not clear when they will be released.

What is clear is that before May 2008 all states must confront the provisions of the Act. Many will face similar problems such as reengineering their licenses and motor vehicle databases, verifying documents and improving security. This document attempts to identify these problems and provide a road map for policy makers grappling with the costs of the Act both nationally and in individual states.

This template of economic costs is divided into four broad categories: (i) changes to the physical drivers' license; (ii) changes to the information technology systems that support those administering the licensing procedure; (iii) verification of source documents; and (iv) other areas of concern. These categories overlap in some areas and were created for the reader's convenience, rather than to track some statutory divisions.

This template is aimed at identifying the economic costs to the states of creating licenses that comply with the Act. Costs to other state entities such as police (purchase of new license readers) and election officials (who rely on motor vehicle databases in some states) are not quantified. Costs to licensees and businesses – such as wasted time, inconvenience and increased fees – are only addressed tangentially.

Issues in Brief

The following is a brief description of the major issues that face states as they attempt to comply with the drivers' licenses provisions of the Act as reported in AAMVA's 50 state surveys.

- **Legal Name** - Many states' drivers' licenses do not have the space on the face of their licenses or in their databases to capture a driver's full legal name. Fifty-seven percent of the states believe this will have a medium to high impact on them because the name record is the central data element for all drivers' license systems. Changing it would in many cases require a complete or partial redesign of a state's entire system.
- **Temporary Licenses** - 59% of states reported that tying non-citizen immigrants' period of license validity to the duration of their stay in the United States would represent a medium to high burden. Many states do not currently possess this capacity and will need to design a new type of license. Training costs to help staff understand and verify immigration documents will be significant.
- **Document Storage** – 65% of respondents stated that scanning and saving all the source documents that states will be forced to compile for licenses would be a medium or high burden. States would have to hire new personnel, purchase new equipment, create network connections and establish a data storage center. Many states have hundreds of licensing facilities that would need to be refitted.
- **Linking Motor Vehicle Databases** – No state seems to believe it is possible to do what the statute explicitly requires: provide electronic access to the wide variety of motor vehicle information that states currently maintain, much less the additional information that states will now be required to compile for each license. State databases contain not just what is on drivers' licenses but also data such as driver's records and suspensions. The states conclude that meeting this requirement will prove impossible. Instead, many suggest the use of a "pointer" system that contains a limited amount of information and directs information seekers to the appropriate state. Even such a pointer system would be very costly and would not satisfy the statutory requirement "to provide access to all other states to information contained in the motor vehicle database of that state." 49 U.S.C.A. § 30301 (note section 202(d)(12)). State databases currently include not only the information to be printed on the drivers license but also "motor vehicle driver's histories," including violations, etc.
- **Facial Image Capture** – States have to build new computer systems to capture all applicants' facial images electronically (as opposed to only people issued licenses). They will also likely need to take photos and build systems so that some type of face recognition software can be used on these images. Both of these requirements mandate costly redesigns and, especially for face recognition, may be difficult to implement in practice.

- **Verification** – 76% of states describe verifying source documents as an area of medium to high concern involving major systems changes and vastly increased hiring. This is in spite of the fact that the states assume that AAMVA or the federal government will build electronic systems for verification. Currently such systems do not exist for most of the information – for example, birth certificates, principal address – that needs to be verified under the system (and the requirements for building such systems, such as scanning every birth certificate in America, are very burdensome). Manual verification would be a nightmare involving contacting multiple issuing agencies and verifying source documents for every single applicant.
- **Renewals** – States report great concerns about license renewals; they have no idea how they will handle the bulk of their transactions – license renewals. The statute is unclear on what level of review these applicant require. If renewal applicants are forced to undergo the entire Real ID process costs would increase exponentially.

Physical Card

The Act standardizes many of the components of state drivers' licenses.³

- **Common Data Elements** – The Act requires that all licenses contain certain common data elements that, surprisingly, all states do not currently require: full legal name, gender, address, date of birth, drivers' license number, photograph and signature. For most states the most problematic elements are placing the entire legal name and address of principle residence on the face of the license.
 - **Full Legal Name** – Many states do not currently meet the 125-character capture required by AAMVA and are, therefore, unable to capture the full legal name of people with long names. Vermont only has space for 25 characters in its license, Washington State 28 characters. The name record is the central data element for all drivers' licenses systems. Changing it in many cases means a complete or partial redesign of the entire system.
 - According to the AAMVA summary of state survey results (hereafter "AAMVA Survey") 57% states believe this problem will have a medium to high impact on them. New Jersey stated, "[o]n a scale of 1 to 10, with 10 being the most complex, the effort would be a 9 or 10." Vermont described it as "impossible" with their current computer system. North Dakota ascribed \$4 million of its estimated \$5.9 million in costs for complying with the Act to fixing this problem alone.
 - Complying fully with this requirement of the Act would require many states to:
 - Redesign their entire database structure including how their information is stored centrally and how it is entered in each field office in every relevant screen and database. Illinois estimated that this process would take between 18 months and 2 years.
 - Change other systems. A number of states noted that this change would also have an undetermined but significant impact on CDLIS (commercial drivers' licenses) and PDPS (problem driver database) because these systems are frequently linked. Additionally, the name field also serves as an access point for other systems, including law enforcement, insurance companies and the election office, so some redesign would be required for those systems as well.
 - Alter contracts with third party vendors. States, such as New Jersey, that use third party vendors as part of their driver licensing process may have to modify existing contracts.
 - Change the design of the card. A number of states noted that "real estate" on the face of licenses is very limited and increased space for

³ The Act also requires uniformity in the issuance of state identification documents. The requirements for those documents exactly mirror those for drivers' licenses. For the sake of simplicity in this memo all documents governed by the Act will be referred to as drivers' licenses.

- legal name would force accommodations in other design elements in the card.
- Redesign and print the paper application for a license.
 - Change Internet and customer service guides.
 - Retrain employees to collect and verify legal name.
 - Dedicate staff to draft and assist in enactment of new administrative regulations or changes in existing statutes.
 - Alter the way information is stored in machine readable element (see below for extended discussion)
- A number of states raised an additional concern – the definition of a “persons’ full legal name.” 49 U.S.C.A. § 30301 (note section 202(b)(1)). In common law states, such as Connecticut, individuals are free to use whatever name they like, subject to ratification by a court.⁴ Wisconsin raised the issue of a married woman who uses her maiden name for business purposes but her married name for all other functions. Other states, like South Dakota, allow an alternative name to be used as long as it is for a “lawful” purpose.
 - **Principal Address** – Some states allow alternatives to a street address such as a P.O. Box or other mailing address. Other states, such as Nevada, do not require an address on the face of the license.
 - Noncompliant states must do some or all of the following:
 - Reprogram databases to add address field or print street address instead of mailing address.
 - Redesign face of license (for states such as Arizona without address field).
 - Rewrite license applications (for states without address field or states that allow alternate addresses).
 - Alter the motor vehicle Internet site, public education materials and perform additional employee training.
 - Change machine readable component to contain principle address.
 - Pass new regulations or statutes.
 - States surveyed raised a number of additional issues:
 - The safety of license holders was of serious concern. Many states do not require street addresses or have laws that shield these addresses for select groups like police officers, judges and victims of domestic violence. States feel placing these addresses on their license could put these individuals at risk.

⁴ *Shockley v. Okeke*, 856 A.2d 1054 (2004) (“Whether an application for a change of name should be granted is a matter which rests in the sound discretion of the court . . . In exercising that discretion, the court should bear in mind that, generally speaking, independently of any court order, a person is free to adopt and use any name he sees fit”).

- How will those without permanent addresses be licensed? Examples include the homeless and individuals who live out of recreational vehicles such as motor homes.
 - The need to record both mailing and street address. States will have to change their systems to record two separate addresses for individuals who do not use their street address as mailing address. Otherwise those licensees might miss correspondence like court notices for tickets.
 - Nebraska raised the issue of individuals such as students and “snow birds” who reside in multiple states or reside primarily in a different state but wish to keep a different state as their primary residence.

- **Physical Security Features** – The Act also requires “physical security features designed to prevent tampering, counterfeiting, or duplication” such as new holograms or watermarks that make licenses harder to duplicate. While most states feel their licenses are quite secure, any state that does not meet the Act’s minimum requirements will have to redesign the entire process for constructing licenses.
 - Significant costs for achieving compliance in this area include:
 - Overhaul existing security features including designing new features that comply with regulations.
 - Determine how to implement features on card.
 - Purchase new equipment or update existing equipment to create card security features.
 - Contract with a third party vendor with expertise in license creation.

- **Machine Readable Element** – The Act mandates “a common machine-readable technology” such as a bar code, magnetic stripe, or Radio Frequency Identification Device (“RFID”) chip that holds the information printed on the front of the license (and possibly additional information) in order to allow computerized scanning of the licenses by a standard reader. 49 U.S.C.A. § 30301 (note section 202(b)(9)).
 - Most states believe they comply with this requirement because they understand it to mean that they are compliant as long as they have any machine-readable element. Discussions with DHS indicate that this assumption is in error. DHS believes that “common” technology means common to all states and, presumably, interoperable between states and the federal government. If DHS adopts that interpretation in regulation, it will result in substantial financial cost to almost every state. The impact of these changes would almost certainly be even greater than those stemming from fulfilling the legal name requirement discussed above.
 - States would have to do the following to have a truly common format among all states:

- Design a common data structure format to define the way the information will be stored. This requires substantial planning and an extensive process. For example, the international standard used to impose machine readability in passports is 92 pages long.⁵
 - Redesign cards to contain a new machine readable element.
 - Create and convert information into common data storage structure (information must be stored on all cards in the same form and structure so that readers can access it).
 - Change or create new databases so that information is stored in a common way.
 - Purchase new readers to read data – for motor vehicle and police departments, and police officer squad cars (and probably others).
 - Maintain two data storage systems and sets of readers during changeover.

- **Temporary Licenses** – The Act requires that those individuals who are not permanent residents of the United States be issued only temporary licenses. 49 U.S.C.A. § 30301 (note section 202(c)(2)(C)). This license must be clearly identified as temporary and is only valid for “the period of time of the applicants authorized stay in the United States” or if that period is indefinite then one year. *Id.* Many states described this provision as problematic because they do not tie end of stay with expiration date of a license.
 - According to the AAMVA Survey, 59% of respondent states rated this requirement as a medium to high burden.
 - Delaware estimated the costs to complete these changes at approximately \$100,000 for its 614,000 drivers and Nebraska stated that they “cannot do with existing staff.”
 - Non-compliant states must do some or all of the following:
 - Modify existing software and databases to support a new type of license with different expiration requirements. New York describes this modification as having a major impact requiring “changes to the licensing file and the approximately sixteen other systems that process against it.”
 - Develop new license that displays temporary status.
 - Change contracts with third parties. Nevada notes, “[a]ny changes to the existing design specifications are billable enhancements by the contractor.”
 - Some states may create a new fee structure for this different type of license.

⁵ International Civil Aviation Authority, MACHINE READABLE TRAVEL DOCUMENTS, DEVELOPMENT OF A LOGICAL DATA STRUCTURE FOR OPTIONAL CAPACITY EXPANSION TECHNOLOGIES, Version 1.7, May 18, 2004.

- Create a training curriculum and train all employees to differentiate between immigration documents that create permanent versus temporary status in the United States. Performing this function entails a mastery of a wide variety of different documents. It may necessitate special expert employees and separate lines or facilities for immigrants.
 - Change regulations and statutes.
- An additional concern that was not raised by the states is how to handle the fact that non-citizens who are lawful permanent residents (“LPRs”) of the United States frequently have the lawful duration of their stay extended. Under the statute, each of these extensions would require a new drivers’ license. Additionally, motor vehicle departments would have to train personnel to recognize the obscure documents that grant these extensions and departments would have to create a system for verifying that these extensions are legitimate.

Database and Information Technology Changes

As discussed above, most changes to the physical drivers' license also require database and information technology (hereafter "IT") changes. The cost-drivers discussed in this section consist almost completely of changes to motor vehicle systems with no direct impact on the physical card.

- **Document Storage** – The Act requires the states to retain a digital scan of source identity documents including a photo identity document (or nonidentity document such as a birth certificate which contains full legal name and birth date), proof of social security number, documentation of a person's principal address and proof of United States citizenship. For applicants who were not born in the United States additional documents proving their lawful residence must also be provided. States must store these documents electronically for at least 10 years (or a paper copy for 7 years). This requirement was one of the largest areas of concern for most states.
 - The AAMVA Survey found that this would have a medium impact on 21% of states and a high impact on 44%. Additional states may be impacted if DHS standardizes the format for capturing images of documents (in order to allow sharing beyond the state). This would likely impact the systems of other states that currently believe they are in compliance.
 - States were concerned not only about the cost of new equipment for scanning and storage but also that the effects of this requirement would ripple throughout the entire drivers' license system. Kentucky's statement is representative: "KY has over 150 locations that would need this technology. There are over 220 non-PCs (3270 terminals) and 170 digitized license workstations in license system. Process could require up to additional 300 people to handle additional workload. Offices would need estimated 300 scanners and a central server to house the documents. The additional equipment and people will create space problem that will lead to requests for additional office space from courts, which issue licenses."
 - In order to comply, states that do not currently scan and store documents must:
 - Hire additional employees to scan and store three or four source documents for each applicant (or more for foreign born applicants).
 - Purchase scanning equipment and additional servers for computer storage space.
 - Redesign and increase office space in order to prevent document scanning from becoming a traffic "choke point" that slows licensing and allow for the additional space requirements of all this new hardware.

- Create database systems for maintaining and accessing these source documents
 - Increase network capacity to allow the transfer of all these records to a central data repository.
 - Design a protocol and train workers to dispose of electronic records.
 - Hire IT professionals to maintain scanner and database equipment
 - Some states such as Illinois also raised concerns over maintaining the privacy of these records and determining who could access them and for what purpose. This concern included not just motor vehicle workers but also law enforcement and federal authorities.
- **State Information Sharing** – The Act requires that each state make their motor vehicle database electronically accessible to all other states and bars states from issuing a drivers’ license to an individual until it has confirmed that the individual is terminating or has terminated their previous drivers’ license.
 - Even though the Act requires all states to be able to electronically access the motor vehicle information of every other state, **no state seems to believe it is possible to directly link to all other state databases.** As Illinois stated, “Establishing direct connections with all other states and jurisdictions, esp. in the absence of uniform standards for information exchange, would be a nightmare for all states.” The cost for such a system would be astronomical, requiring both the complete redesign of every state’s motor vehicle database into a common format and establishment of direct network connections among every state. It is not clear how states will reconcile the clear mandate of the statute with the state’s seeming complete unwillingness to perform this function.
 - States, instead, believe some type of “pointer” system similar to the Commercial Driver’s License Information System (hereafter “CDLIS”) will be developed under the auspices of AAMVA. Under CDLIS a central database contains identification data about each commercial driver registered in the jurisdictions including name, date of birth, social security number, and state driver license number. When a state gets a hit under the system they are then directed to the relevant state for additional information. Such a massive “pointer” system was proposed under the 1998 Transportation Bill (“TEA-21). Called the Driver Record Information Verification System (hereafter “DRIVERs”) this system was ultimately shelved. A number of states complained that it would be too costly to implement.
 - While a number of states such as Arkansas and Delaware seem to believe that they are compliant because they are participants in CDLIS and another “pointer” system, the Problem Driver Pointer System (hereafter “PDPS”), this assumption would seem to be incorrect because of the limited scope of both

systems (commercial drivers and problem drivers) and the comprehensive scope of the Act (covering all drivers). Nor is it clear that any “pointer” system would meet the Act’s requirements that a state be able to *electronically* access all the motor vehicle information of every other state. It is not clear how the tension between this statutory language and the technical obstacles inherent in achieving complete interoperability between state databases would be resolved.

- If we assume that states will be allowed to fulfill the Act’s requirements by building a national “pointer” system that encompasses every driver this will still be a substantial burden. In the AAMVA Survey, 48% of states said providing electronic access to other state motor vehicle database would be a medium to high burden. Fifty-one percent of states said assuring that drivers have terminated their previous license would be a medium to high burden.
- States will need to do the following to become compliant:
 - Build a national “pointer” system. It is not clear how such a system would be constructed. The scale of such a system would be much broader than CDLIS, containing 20 times as many records and would require enormous infrastructure and personnel costs.
 - The maintenance costs of such a system would also be enormous. The charge for maintaining the CDLIS system is \$.083334 per month per record.⁶ Assuming that a national pointer system had similar maintenance expenses, the cost for maintaining a database of the 190 million current U.S. license holders would be \$190 million annually.⁷ In fact, due to the much greater scale of a national pointer database, these maintenance costs would likely be much higher.
 - None of the costs of creating a “pointer” system cover the costs to states of interfacing with the system including:
 - New state database fields.
 - Redesigned license application (asking about existing license from another state).
 - Increased network requirements.
- **Facial Image Capture** – Real ID requires every person that applies for a license to be subject to a mandatory facial image capture. Most states argued that they were compliant with this section because they take a photo as part of their licensing process. However, there are two issues that were not considered by most states – the difficulty of capturing a usable image of all applicants (as opposed to drivers who received licenses) and the need to use facial recognition.

⁶ AAMVA website, CDLIS page, available at http://www.aamva.org/drivers/drv_AutomatedSystemsCDLIS.asp

⁷ According to the U.S. Department of Transportation there were 190,625,023 licensed drivers in the United States in 2000. See, <http://www.fhwa.dot.gov/ohim/onh00/onh2p4.htm>.

- Capturing all applicants – While only a minority of states, such as Arizona, interpreted this requirement as requiring a photo of *all* applicants, including those under review, it seems very reasonable that this is the correct interpretation of the statute. One of the assumptions that underlies the Act is that those individuals who do not qualify for a Real ID pose some level of security threat. Hence, recording people who were unable to get a Real ID presumably has some security value. In order to record photos of all applicants (as opposed to just license holders) states would have to:
 - Create new database consisting of pending and failed applications.
 - Train new personnel to run system for recording failed applicants.
 - Devote personnel to creating and maintain this database.
 - Change the system in order to capture a facial image as early as possible in the licensing process. Illinois was particularly concerned that they will have to remodel all 130 licensing facilities to meet this requirement.
 - Design a data retention schedule for this information.
 - Change regulations and statutes.
 - Scan and save source documents. Georgia raised this as a possible area of significant cost.

- Facial Recognition – DHS is considering the possibility that some type of facial recognition technology may also be mandated by regulation. Such technology is already in use in at least one state, Kansas. This requirement imposes substantial burdens and requires states to:
 - Regulate how photos are taken including the expression of individuals being photographed (no smiling), the type of camera taking the photo, the photo background and the exposure of facial characteristics (glasses, hair covering ears, head scarves).⁸
 - Purchase of photo recognition technology.
 - Construct a database to store photos in a readable format.
 - Train staff in the proper capture of facial images and utilization of face recognition technology.

- A number of states also raised an additional concern – religious exemptions to the taking of photographs. Some states do not require a photo for those individuals whose religions ban the practice, such as the Amish.

⁸ Repeated studies have found that smiling and other facial expressions as well as items worn on the face and head can render the image capture useless for facial recognition purposes.

Verification

Before issuing a license under the Act states “shall verify, with the issuing agency, the issuance, validity, and completeness of each document required to be presented.” 49 U.S.C.A. § 30301 (note section 202(c)(3)). Applicants must present a photo identity document, proof of date of birth, proof of social security number (or proof of lack of eligibility for same), proof of address, and proof of citizenship or lawful immigration status. As discussed in greater detail below, using currently available systems some verification can be performed electronically, most cannot.

- Verification was another area of significant concern for the states. According to the AAMVA survey 57% of states indicated this was an area of high concern and an additional 19% of states reported it was an area of medium concern.
- Many states have no idea how they would fulfill the requirements of this section. Other states assume that all verification would have to be performed through the use of electronic verification systems. However, this assumption is problematic for two reasons. The first is pragmatic – current systems either do not exist or are not capable of fulfilling all the requirements of the Act. The second is statutory – the Act requires verification “with the issuing agency.” On its face the use of a third party system to check electronic records does not seem to meet this requirement.
- Maryland underlies these points in its response regarding its ability to verify documents. It notes that for the purpose of responding to the survey it assumes that electronic verification will be available but “[i]n reality there will likely be varying combinations of electronic and manual validation occurring until fully automated systems are in place in all states. There will be significant staffing / cost impacts during the earlier years when there is a high percentage of manual verification occurring.”
 - In a report on the issuance of Social Security numbers the General Accounting Office has reported that there are security dangers inherent in relying too heavily on electronic verifications procedures and neglecting the inspection of physical documentation.⁹
- **Electronic Verification Systems** – Electronic systems exist for the verification of immigration status, Social Security Number information and enrollment in the military. Much smaller, experimental systems exist for verifying birth certificates. Some of these systems require reconfiguration in order to satisfy the requirements of the Act. States would have to pay to access most of these systems. That fee has been noted where it was available.

⁹ General Accounting Office, SOCIAL SECURITY ADMINISTRATION: ACTIONS TAKEN TO STRENGTHEN PROCEDURES FOR ISSUING SOCIAL SECURITY NUMBERS TO NONCITIZENS BUT SOME WEAKNESSES REMAIN, October 2003, GAO-04-12.

- Systematic Alien Verification for Entitlements Database (“SAVE”). The SAVE system allows federal, state, and local government employees to verify immigration status to determine eligibility for public benefits. SAVE employs a two-part system where an initial search is performed against the SAVE database by DHS. Then, for individuals who cannot be approved by this first search, a secondary, manual inquiry is performed. SAVE is the only electronic database mentioned by name in the Act. States were required to sign a memorandum of understanding agreeing to use this system by September 11, 2005. As of September 2005, 30 states collect information on the citizenship or immigration status of applicants for drivers’ licenses.¹⁰
 - Costs to query SAVE are between \$0.26 and \$0.48 per request.
 - Some states have only limited access to this system and would require additional expenditures to more fully integrate it into their licensing process.

- Social Security Number Online Verification Database (“SSOLV”). SSOLV allows motor vehicle departments to verify that the Social Security Number that an applicant presents matches the information contained in the Social Security database. SSOLV does not meet the full requirements of the Act because it cannot verify that someone is not eligible for a Social Security Number. Either SSOLV must be expanded to contain this information or, more likely, a new system must be created that contains the names of individuals not eligible for Social Security Numbers.

- Electronic Verification of Vital Events (“EVVE”). EVVE is a pilot program consisting of a limited number of states and run by National Association for Public Health Statistics and Information Systems (“NAPHSIS”) where NAPHSIS serves as a routing agent, receiving requests in a standardized format, sending the requests to the state holding the record and then forwarding the record to the requesting state. According to Colorado this database costs \$1.28 per query. North Dakota places the cost at \$1.10 per check. Washington State notes that it must pay \$8 per inquiry to verify documents from its own Department of Health. Illinois states that it will not use EVVE and will construct its own system.
 - In order for EVVE or a system like it to be created and employed the following steps would have to be taken:
 - Identification of all relevant source agencies that issue birth certificates. There are over 6,000 different jurisdictions in the United States that issue birth certificates.¹¹
 - Electronic scanning, storage and retrieval for all birth certificates in a standard format. This will require significant

¹⁰ American Association of Motor Vehicle Administrators, SAVE SYSTEM SURVEY, SURVEY OF THE STATES ON IMPLEMENTATION OF DRIVER’S LICENSE AND IDENTIFICATION CARD REFORM, September 2005.

¹¹ Office of Inspector General, U.S. Department of Health and Human Services, BIRTH CERTIFICATE FRAUD, September 2000; available at <http://oig.hhs.gov/oei/reports/oei-07-99-00570.pdf>.

- hiring of new personnel and purchase of new equipment as well as oversight from a central agency (probably one that is part of the federal government).
 - Creation of a central clearinghouse responsible for handling birth certificate inquiries.
 - Establish linkage between local issuers and central clearinghouse and central clearinghouse and licensing entities.
- Defense Enrollment Eligibility Reporting System (“DEERS”). DEERS is an electronic system of military sponsors, families and others worldwide who are entitled under the law to military medical benefits. According to the AAMVA survey, states are considering using this database for verification but it is not clear for what data – presumably address information for military personnel and their families. Most states currently do not access this system. Whether this system requires any updates depends on motor vehicle operators intended utilization.
- In order for states to fully integrate any electronic system into their licensing process, the following steps would be necessary:
 - Reprogram existing interfaces at the point of issuance to allow these databases to be queried and searched.
 - Change a central database to store the results of these queries.
 - Expand network capacity to allow connections to new databases.
 - Purchase hardware and software to connect to existing databases.
 - Sign agreements with the relevant federal agencies.
 - Hire personnel to man the new systems.
 - Perform significant retraining. As New Jersey states, verification “adds complexity to the decision making process and whether to license an individual or not.”
 - Change existing regulations and statutes.
- A number of states noted that verification, whether electronic or manual, almost certainly eliminates the ability of motor vehicle departments to immediately issue licenses to individuals. Instead licenses would have to be mailed to recipients. This would necessitate additional expenses including postage and collection and storage of mailing addresses (and the commensurate changes to information systems that would require). Alternatively, if over the counter licensing were to be continued it would require additional staff to perform these tasks in real time.
- A number of states have raised other issues which they identify as matters of significant concern:
 - The verification of foreign passports. Foreign passports are the only foreign document acceptable under the Act. However there is no electronic system that states are aware of for verifying these

documents. Further, there is no practical way to verify a foreign passport with its issuing agency.

- Verification of Principal Address. There is currently no system for verifying principle address and no government entity tasked with collecting such information. If this information is to be collected from private parties how can an electronic system be built and what incentive will private parties have to comply with it? As Oklahoma stated, in order to comply with this provision “Third party vendors will be required by state law to provide online/electronic verification. All third party vendors will be required by state law to verify and list all persons residing at a given address (spouse, children, in-laws, boarders, etc.)” Such a registration would entail large financial and societal cost.
 - While it is outside the scope of this analysis it should be noted that address verification will impose extraordinary burdens on private parties who are the primary holders of address information. An entity whose correspondence is frequently used to prove address, like a utility company, will likely have to assign people solely to responding to verification inquires.
 - The reliability of the data in electronic systems. South Dakota describes its concerns about SAVE as follows, “[s]ystem not up to date... months behind. Have tried to use it to verify foreign nationals... totally unreliable.”
 - The reliability of the systems themselves. West Virginia noted that if a variety of different electronic systems were utilized for verification, any time any of these systems were down it would be impossible to issue a license.
 - The detrimental impact on customer service. Many states expressed concern that customers whose documents could not be verified would have to return to the motor vehicle department multiple times increasing wait times and customer dissatisfaction.
- An additional issue of significant concern that was not raised by states is how to handle individuals whose information cannot be verified. For example, over the better part of a century, birth certificate records are lost, accidentally destroyed or rendered suspect due to fraud or malfeasance. A few people are not sure where they were born. The Act is silent on how individuals in this situation would verify their records. Alternatively, many individuals, especially teenagers, may have no way to prove their principal address because they do not receive mail or bills at any address.
- **Manual Verification** – It seems unlikely that all the necessary electronic systems could be developed in time for the Act’s implementation date. Additionally, some information, such as principle address, may never be verifiable electronically. Hence,

if the Act is to be implemented on time some manual verification of documents seems inevitable.

- No state currently performs manual verification for all documents. Some states such as Alaska and Colorado, manually verify immigration information for a small subgroup of applicants whose documents appear suspicious. In order to become compliant with this section of the Act states would have to do the following:
 - Hire personnel to verify every source document. This process will be very labor intensive. Washington State, which licenses 1.6 million drivers annually, estimates it would have to hire 500 additional personnel at a cost of \$20 million annually to perform these functions.
 - Design a system to transport documents to a verification site and then perform and track the verification process.
 - Collect information necessary for verification such as entities that must be contacted and their contact information.
 - Determine protocol for individual's whose documents cannot be verified.
 - Pay for communication such as long distance phone calls, electronic mail and postage to transmit source documents.

- Manual verification is likely to be a cumbersome process. For example manual verification of birth certificates could easily entail the following steps:
 - A motor vehicle employee will need to contact the municipality that issued the license and ask them confirm that they have a certain birth certificate on file. As noted previously, over 6,000 different jurisdictions issue birth certificates within the United States alone.
 - Because many of these files are not computerized, this will often require a clerk to locate the birth certificate from within paper files stretching back over many decades.
 - Because birth certificates are not standardized, the motor vehicle employee and the local clerk will likely need to somehow compare copies of the certificate in order to verify the "issuance, validity and completeness" of the document as the law requires. 49 U.S.C.A. § 30301 (note section 202(c)(3)).
 - The motor vehicle employee will then have to certify completion of this verification process.
 - This process must be completed for most of the more than 190 million US license holders because presentation of a birth certificate is one of the few means an American citizen has of verifying they are a "citizen or national of the United States" as required under the Act.¹²

¹² According to the U.S. Department of Transportation there were 190,625,023 licensed drivers in the United States in 2000, <http://www.fhwa.dot.gov/ohim/onh00/onh2p4.htm>. The Act requires that drivers who have already been licensed participate in the verification process when they renew their licenses. 49 U.S.C.A. § 30301 (note section 202 (d)(4)).

Other Concerns

The Act raises a variety of other concerns.

- **Security** – The Act requires substantial security improvements to drivers’ licenses. In addition to the “physical security features designed to prevent tampering, counterfeiting, or duplication” on the card itself, motor vehicle departments must also “ensure the physical security of locations where drivers’ licenses and identification cards are produced and the security of document materials and papers from which drivers’ licenses and identification cards are produced.” 49 U.S.C.A. § 30301 (note section 202(d)(7)). Further, state employees who are authorized to manufacture ID cards must be subject to “appropriate security clearance requirements” and “fraudulent document recognition training programs” must be established for employees who issue licenses. 49 U.S.C.A. § 30301 (note section 202(d)(9))
 - Most states believe that they their licenses and license review processes are very secure. However because states use a wide variety of security measures and protocols, DHS regulations may have a cost impact on some states.
- Document Security – As discussed above, the Act requires minimum document security features such as new holograms or watermarks.
- Information Security – States will need to install comprehensive safeguards to protect all the personal information contained in the databases including encryption systems, customized access control applications and firewalls. The AAMVA survey does not ask about this requirement however if, as the Act seems to envision, motor vehicle information is going to be shared across states, then all states are going to need substantial security protections in order to safeguard against crimes like identity theft.
 - States that are not providing a minimum level of security will have to:
 - Purchase security software.
 - Run security checks to test basic security controls.
 - Hire IT professionals with security expertise.
 - Protect communications between state motor vehicle departments through encryption or other information safeguards.
- Physical Security – All the locations where licenses are produced or machinery is stored must be physically secured.
 - A few states cited this provision as a concern. For example, Oklahoma uses a third party to issue its licenses and has 280 issuance sites. Physically securing all these sites would be difficult enough that the state said it would consider changing its entire licensing process.
 - While most states did not identify compliance with this provision as a problem, there is still some reason to believe that the Act could mandate standards more strict than those that states currently employ. Identity thieves

have routinely targeted drivers' licenses and drivers' information.¹³ True security for licensing facilities may mean more than locked doors including measures like guards and sophisticated access controls.

- States might have to do the following to provide appropriate security:
 - Design processes to closely control access to all machines that produce licenses.
 - Build new facilities or upgrade existing facilities to protect the process for manufacturing licenses.
 - Task additional personnel to perform ongoing security.
- Fraud Recognition and Security Clearances – The Act's requirement that states create a system for performing security clearances on all personnel and design a fraudulent document recognition training program did concern some states.
- Some state motor vehicle departments do not have control over the entire licensing process making it hard to institute effective fraud recognition programs and do background checks. In Alabama, probate judges and license commissioners issue duplicate licenses and motor vehicle officers have no ability to mandate their compliance with fraud recognition programs. Other states employ third party issuers for licensing. Oklahoma noted that it has a high rate of turnover at its licensing sites, increasing the expense of background checks.
 - Most states have fraud recognition programs so the principal expense from this provision will be in any hiring necessary to expand the program and the lost work time necessary for employee training.
 - Costs associated with the background check provision include:
 - Paying third parties or state personnel to perform background investigations.
 - Determining what problems in an individual's background will bar them from employment.
 - Creating and staffing an appeal process for terminated employees.
- **License Renewals** – The Act requires states to “establish an effective procedure to confirm or verify a renewing applicant's information.” 49 U.S.C.A. § 30301 (note section 202(d)(4)). The scope of this “procedure” is not clear but presumably renewals will be subject to some provisions of the Act. That will vastly increase the number of individuals subject to the Act and likely eliminate many of the efficiencies that motor vehicle departments have created in recent years such as Internet renewals. As Massachusetts noted, “impact will be monumental if required to ‘call back’ entire population.”

¹³ Center for Democracy and Technology, UNLICENSED FRAUD: HOW BRIBERY AND LAX SECURITY AT STATE MOTOR VEHICLE OFFICES NATIONWIDE LEAD TO IDENTITY THEFT AND ILLEGAL DRIVER'S LICENSES, January 2004.

- States expressed substantial concern regarding this provision. Forty-one percent of states in the AAMVA survey described it as an area of medium or high concern and an additional 35% reported they could not quantify their level of concern because of the ambiguity of the statutory language.
- Bringing state license renewals into compliance with Real ID implicates many of the issues previously discussed. There are a few areas where specific changes would have to be made to ensure compliance:
 - States would have to update their databases to allow confirmation that renewal information has been verified.
 - Public education would be necessary to explain new procedures to long time drivers.
 - The issuing agency for renewals might have to change. For example in some jurisdictions, such as Oklahoma, renewals are handled by third parties and are currently outside the state's control.
- Elimination of alternative means of renewal, such as the Internet, would also be very costly and create a large administrative burden since in many states a large number of renewals are conducted through these means. If all of these individuals have to return to the motor vehicle department to renew their licenses, then lines will swell and new personnel would have to be hired to handle this increased traffic.
- States raised two other concerns:
 - If verification of existing cardholder documents extends the time for renewal substantially, then temporary licenses might have to be issued. This would result in substantial costs including the production of a new type of license and the information technology systems necessary to support it.
 - In order to effectively renew documents for individuals who already have a Real ID, licensing issuers must be able to rapidly retrieve the extensive information that states will store regarding each license holder (such as scanned source documents).
- **Appeals Process** – While not explicitly required under the Act, nor discussed in the AAMVA survey, states will have to provide an appeal process for individuals who are denied a license. Such a requirement seems mandated both constitutionally (under the due process clause) and practically (because of the central importance driving plays in the lives of Americans). This will require states to:
 - Pass new legislation or create regulation authorizing an appeals process
 - Design an appeals process and notifying individuals of their right to appeal an adverse determination.
 - Hire personnel to adjudicate and investigate claims.

- Determine what constitutes wrongful denial of a license and determine what, if any, exemptions there may be for individuals who may be barred for some reason from receiving a license.