

Governor's Task Force on Real ID Act of 2005
Meeting Documentation
November 15, 2005
1:00pm – 4:00pm
Meeting Location: Virginia Department of Motor Vehicles

Attendees

Anne Atkins, DMV Communications Office
Richard Barton Campbell, Office of the Attorney General
David Bass, Alliance Group
Robert M. Blue, Dominion Resources, Incorporated
Sharon Brown, DMV Driver Services Administration
Karen Chappell, DMV Deputy Commissioner
Ralph Davis, Deputy Secretary of Transportation
Eileen Filler-Corn, Governor's Liaison Office
Colonel W. Steven Flaherty, Virginia State Police
Millicent Ford, DMV Driver Services
Pam Goheen, DMV Communications Office
Barry Goleman, CGI-AMS
Tanya M. Gonzalez, City of Richmond
F. Gould
Karen Grim, DMV Assistant Commissioner
Morgan Guthridge, Office of Commonwealth Preparedness
Hope Herring, DMV Facilities Management Services
Barbara Klotz, DMV Legislative Services
John W. Knapp, Jr., Verizon Virginia
Chris Law, Bearing Point
Becky Lloyd, DMV Legislative Services
Carol M. Longley, DMV Legislative Services
Dean A. Lynch, Office of the Secretary of Health and Human Resources
Jo Anne Maxwell, DMV Policy Director
Constance McGeorge, Office of Commonwealth Preparedness
Marta Morales, DMV Legal and Regulatory Affairs
Eric Mosier, Federal Transportation Safety Administration/DHS (attended conference call at the Arlington County Offices)
Steven Myers, Virginia Poverty Law Center
Bob Newman, Office of Commonwealth Preparedness (filling in for George Foresman)
Dave Pendergrass, Mitem
Aimee Perron Seibert, American Civil Liberties Union of Virginia (ACLU)
Betty L. Serian, Pennsylvania Department of Transportation
D. B. Smit, DMV Commissioner
Jeff Spencer, Senior Assistant Attorney General
Roger L. St. John, Philadelphia Region of the Social Security Administration
Walter Tejada, Arlington County Board of Supervisors (conference call from Arlington County Offices)
Ron Thompson, DMV Legislative Services
Tully Welborn, DMV Customer Service Management Administration
Kent Willis, American Civil Liberties Union of Virginia (ACLU)

Meeting Summary

Welcome and Introductions

Introductions of attendees who were not present at the last meeting were held.

D. B. Smit asked the group to provide comments on meeting documentation from the previous meeting. No comments were made.

Update on National Governors Association (NGA) Meeting: Eileen Filler-Corn, Governor's Liaison Office

A meeting was held on October 14, 2005, with staff of the National Conference of State Legislatures (NCSL), Department of Homeland Security (DHS), National Governor's Association (NGA), and American Association of Motor Vehicle Administrators (AAMVA). This was the first meeting for these groups to discuss the Real ID Act. This meeting provided an opportunity to obtain clarity on the Act, looking at timeframes, and reviewing the issues. A meeting scheduled for November 10, 2005, to continue discussions was delayed until November 16, 2005, giving time to clarify the roles of each group. NGA and NCSL are to take the lead and work with DHS and AAMVA to ensure reasonable implementation of the Act.

Eileen recommended to this Taskforce to review the statute, outline what is required and identify where Virginia stands in relation to the statute. Then determine what is already in place and what needs to be implemented. Review those items that need to be implemented and determine what can be easily implemented, what should be implemented and identify those items that cannot meet implementation timeframes. Once we have identified these items, we should work with NGA to have law changed and look at regulatory process. This should be a unified effort with maximum flexibility.

Lessons Learned from Legal Presence: D. B. Smit

In the previous meeting, it was suggested to consider lessons learned from Legal Presence implementation for the report development. The group was provided, for their information, a document that outlined a six-month review of Legal Presence implementation.

Legal Presence began with a statewide panel tasked with the implementation of Legal Presence legislation. From an implementation standpoint, Legal Presence was a success, however, it presented problems for the elderly and those individuals who are financially unable to pay fees for documents to prove legal presence.

D. B. Smit asked for attendees to provide comments about the document. No comments were made.

Review of Model/Report Structure/Timeline: JoAnne Maxwell, DMV Director of Policy

Five scenarios were reviewed that gave the group a feel for situations or issues that may arise upon implementation of the Act to include the following:

- 1) Virginia resident/U. S. Citizen with a Virginia driver's license for many years needs to fly to California on 5/20/08 – has all documents needed to comply with Act but no credential other than driver's license needed for boarding an airplane.
- 2) Virginia resident/U. S. Citizen with a Virginia driver's license for many years – driver's license expires 5/20/08 does not have documentation needed to comply with Act.
- 3) Foreign-born Virginia resident not lawfully present in the U. S. has held a Virginia driver's license for many years, driver's license expires 5/20/08.
- 4) New Virginia resident/U. S. Citizen licensed and born in another state, moves to Virginia on 5/20/08 – applies for a Virginia driver's license but does not have documents necessary to comply with Act.
- 5) Virginia resident/U. S. Citizen 12 years old applies for an identification card on 5/20/08 but does not have all documents necessary to comply with the Act particularly proof of address.

The group was provided a model for a Real ID program, containing key critical issues and possible options. The key issues include:

- Compliance
- Grandfathering
- Minimum document requirements
- “Temporary” on credentials
- Verification
- Scanning identity documents and retaining scanned documents
- Effective procedure to verify/confirm credential holders information upon renewal
- Accessibility of DL/ID records to other states
- Acceptable proof documents

The advantages and disadvantages of each option were discussed. The group provided input and additional comments.

The following provides a summary of the discussion:

Compliance

The group discussed the different options to include: issuing compliant credentials (Single System) and issuing compliant and non-compliant credentials (Dual System). Additional options were mentioned such as issuing compliant and non-compliant driver's licenses with compliant identification cards (Hybrid Dual System), and also an option to issue compliant credentials with an “opt out” element.

Outcome of Discussion:

Prior to making a decision on the issuance of compliant and non-compliant documents, the following needs to occur:

- Estimate costs for different options.
- Identify operational issues.
- Determine what is realistic. Look at what has already been achieved, can be achieved reasonably, can be achieved but with great expense that require technological advancements and what is impossible to achieve.
- Review regulation and decide if change in regulation will be needed for issuing non-compliant credentials.
- Keep in mind that with increased rules this may lead to confusion for those issuing and reviewing documents and among law enforcement and federal agencies.

Grandfathering

The Act will require change or regulations will require clarification on grandfathering. This issue could have significant impact on DMV and the public. If all individuals are sent back in to DMV to comply with the Act, the cost of implementation will increase significantly. Additional DMV facilities and staffing will be needed, and the way DMV conducts business will change.

Grandfathering will decrease these operational issues and lessen the cost of implementation, however, grandfathering will also lessen the security and effect of the Act.

As an alternative it was suggested to grandfather with behind the scenes compliance using available databases e.g.: SSN and image analysis. Run all licenses against the database and send only problematic or those with duplicate licenses in to DMV.

A suggestion was made to submit the full impact of complying with the Act to DHS. The group determined that it was not reasonable to submit the full cost when grandfathering was not considered and if every requirement in the Act had to be complied with by 2008. The impact would be significant and it is unlikely that the full cost would be reimbursed.

Outcome of Discussion:

Grandfathering is recommended to lessen the impact on DMV and the overall cost of implementation.

Minimum Document Requirements

There are two areas of concern: having the technical ability and space to place full legal name on the driver's license, especially for those with two last names, and placing residential addresses on the license document. There were two options outlined: keep all requirements as stated in the Act having full information on the front of the document, or modify the requirement to permit less than full legal name and an alternate address on face of credential enhancing privacy/personal security of individual.

It was noted that the definition of full legal name will be needed, in some cases, individuals have four names. If the full legal name is placed on the document, there is the potential that this name could be different than what is on the source documents. There may be a need for naming “criteria” or scheme that achieves the purpose intended without the use of aliases.

Having the residence address on the front of the document raises privacy concerns and it will likely require a change in the Act to place an alternative address on the document. This change will allow for an alternative address to be used especially by victims of domestic violence and/or stalking.

Outcome of Discussion:

Placing full legal name on the document will be achieved with the next system implementation. In the Fall of 2006, DMV will be obtaining a new driver’s licensing system that should be able to handle adequate number of characters and should not limit the number of names.

The group would like the flexibility to place an alternate address on the front of the document in place of residence address.

“Temporary” on Credentials

Today, Virginia incorporates a numeric code on the back of the license. This code subtly denotes that the license is “temporary”. This approach recommended by the Legal Presence taskforce works for Virginia and does not stigmatize. It was also suggested to have a fall back position if the approach does not work and determine other options such as color of license.

Outcome of Discussion:

The requirement will be set forth in regulations. The group suggested utilizing Virginia’s current approach to handle identifying a “Temporary” credential and that this will potentially influence regulations.

Verification

There is an assumption that there is an electronic solution to verifying documents. However, clarification is needed on the intent of the Act: whether it is to verify information or the document. This will assist in determining the verification process with government and private sector entities. Some consideration needs to be given as to whether private sector entities will cooperate. Verification of address is of major concern. This is an increased requirement over what is in place today, currently require proof of residency but not address. Additional responsibilities could be imposed on DMV for ADA and other such assistive Acts.

Verification could be handled in a two-step process incorporating regional verification or verifying through another verifier such as the Social Security Administration.

Currently, SSA does not have an electronic exchange for verification. SSA is working with AAMVA and DHS on a solution for proof of ineligibility, where AAMVA would potentially be the umbrella. The taskforce will be informed of the potential solution.

Outcome of Discussion:

The taskforce would like to seek clarification on intent of the Act and postpone discussion until SSA and AAMVA have reached a solution.

Scanning Identity Documents and Retaining Copies of Source Documents

Today, DMV does not scan and retain proof documents for a specific period of time. The Act requires that if documents are captured electronically, documents are to be retained for 7 years, and if they are retained in paper form, the retention period for these documents is 10 years. If DMV scans and retains proof documents longer than the specified period of time, will this be used to justify not requiring renewal applicants to re-prove? This raises a one-time compliance issue. The taskforce noted that this should be similar to the Passport process, where you are able to renew without providing proof documents upon renewal.

There was concern as to whether the machine readable technology on the license would link you to the documents presented by the customer. It was confirmed that the information contained in the current driver's license bar code only includes the information on the front of the license.

Outcome of Discussion:

It is clear that if we did not have to review proof documents upon renewal, the retention period of scanned documents would need to be longer.

Effective Procedure to Verify/Confirm Credential Holder's Information Upon Renewal

The area of concern for this issue is the definition of 'verify' and 'confirm'. Clarification is needed on the terms confirm and verify. Do we confirm the applicant's information upon renewal, after the first Real ID driver's license has been issued and the applicant's information has already been verified? It was suggested that DMV could confirm an address with vehicle registration address on current DMV records.

Outcome of Discussion:

Seek clarification on interpretation of confirm and verify. Confirm is the preferred interpretation and will place less of a burden on DMV and the applicants.

Accessibility of DL/ID Records to Other States

States will need to confirm the termination of a driver's license if individual is from another state. Access to DMV records among states will be needed. This will require a national network that cannot be completed in 31 months and a delayed implementation would be necessary. An extension would be needed.

Some options to consider is to potentially make the individual responsible for their own information and have them disclose upon making application for a driver's license prior state of license. This requirement would be similar to the Motor Carrier Safety Improvement Act (MCSIA) in which DMV could use as a model or develop a "check-out" system prior to an individual moving to another state.

Outcome of Discussion:

Individuals physically surrendering their driver's license should be sufficient. DMV could deface the out of state license when collected, letting the customer keep the license for identification purposes while new license is being processed and send notification to the state that the individual was from that the license was surrendered.

Acceptable Proof Documents

There was discussion as to whether the list of acceptable documents should be placed in regulations. This will limit the flexibility.

Outcome of Discussion:

It is recommended not to place them in regulations.

Report Structure

DMV will develop an outline that will be based on presentation last week and will be provided at the next meeting for taskforce to react to.

Time will need to be incorporated into the schedule for review by policy office and for Secretary review.

Draft should be complete no later than December 1st.

Additional Comments

- It was recommended that fee waivers be considered for those who cannot pay.
- Identify issues and make recommendations.