

AMERICAN IMMIGRATION LAWYERS ASSOCIATION
ILLINOIS SECRETARY OF STATE
Unofficial liaison minutes from April 4, 2017 Meeting

Temporary Visitor Driver's License (TVDL)

- a. *Can applicants who have a social security number but no valid employment authorization document (EAD) or visa apply for and receive a TVDL? Members have reported issues with applicants being able to obtain a TVDL if they have a social security number but no other lawful status.*

Yes, an applicant can apply, even if they have a social security number. The applicant will need to explain why they have a social security number, i.e. that they used to have status and obtained the SSN legally at that time, but that their other documents have now expired.

They asked AILA to reach out to them if any of our clients have had an issue obtaining a TVDL when they have a valid SSN but no other valid documents. They would like to know what facilities this is happening at and specifically when this happened. Please share this information with Rich Hanus or Lauren McClure if this applies to any of your clients.

TVDLs are currently at a 75% renewal rate from 2013-present time. They believe most of the other 25% is due to forgetting to renew.

Privacy Protection

- a. *What are the privacy protections regarding information applicants provide to the Secretary of State's office?*

The Secretary of State continues its policy of never actively turning over information to DHS (has always been their position and still is). If DHS requests information, they will say no (see below for further explanation).

- b. *Who, specifically what agencies, have regular access to that information, and how else can that information be accessed (e.g. through subpoena or warrant)?*

Immigration & Customs Enforcement (ICE) has access to the LEADs (law enforcement agencies data system) database, however, they can only search for an individual by entering biographical information. They cannot do a general search or any other type of search. Further, the information that shows up in LEADs does not show whether the individual has a TVDL for documented v. undocumented.

- c. *Would the Department of Homeland Security have access to the information, without a subpoena or warrant?*

Without a subpoena or warrant, the Secretary of State will not share information. If DHS obtains a subpoena or court order, the Secretary of State will contact the Attorney General and their plan is to resist that subpoena or court order. If a warrant, then they will alert AILA about it, but likely do not have a basis to resist it.

They also confirmed that this type of information is not being sought by DHS in other states. If it was, they would find out about it.

625 ILCS § 5/6-115 and Automatic Employment Authorization

- a. *USCIS recently published a final rule implementing an automatic extension for validity of Employment Authorization Documents (EADs or Form I-766s) for a period of 180 days for certain individuals who apply on time to renew their EADs.*
- i. *Is the Secretary of State's office aware of this new rule? Has the office provided extensions to licenses based on this rule?*
- ii. *If not, please find attached publication (in email) from USCIS addressing which categories for employment renewal are eligible for automatic employment extension for 180 days.*

Here is the link to the final rule: <https://www.gpo.gov/fdsys/pkg/FR-2016-11-18/pdf/2016-27540.pdf>.

Would the office be willing to incorporate these changes into their policy for license renewal based on proof of lawful status?

Yes. The Secretary of State has requested AILA's assistance to provide materials that can be used to train their staff. We are in the process of providing information to them. They will then let AILA know how these types of requests will be handled, and which facilities will handle these types of requests. The committee will then distribute that policy to the membership.

For now, the policy remains that if an applicant is denied a license renewal, but timely-applied for their EAD renewal and they fit under the eligibility categories outlined by USCIS, to contact Rich Hanus or Lauren McClure. Rich and Lauren will in turn contact general counsel's office to arrange for the individual to obtain their license renewal.

The Secretary of State also wanted to remind AILA members that the applicant can always apply for a TVDL, in alternative to obtaining a regular license renewal. The TVDL is valid for 3 years. This may be easier for the applicant to obtain and will last

longer, since in most circumstances they can only provide 6 months extension (or longer if employment-based) if applying in the automatic renewal context.

REAL ID implementation

- a. *Are these any significant changes since our last meeting regarding REAL ID implementation that we should be aware of?*

All REAL ID legislation is now in place. Changes to facilities continue to be made. Right now, changes are being made so that the facilities can meet the REAL ID photo requirements (picture-taking will occur first). These changes have started and will continue throughout the year.

The Secretary of State will have to request an extension in October from the Department of Homeland Security. Their present extension is valid until October 10, 2017. They expect to receive the extension because all efforts to become compliant have been made by the state. The extension would provide the state until October 10, 2018 to become compliant.

- b. *What is the final date when the Secretary of State anticipates that Illinois will be fully compliant with REAL ID?*

They expect to be fully-compliant early to middle of 2018.

Two important upcoming dates:

January 1, 2018: noncompliant states, who have made no progression towards compliance (Montana, Minnesota, Missouri, and Maine)- their residents will be unable use their state driver's licenses to fly (they are already prevented from using their licenses to enter federal facilities and nuclear power plants)

-assuming Illinois receives its extension, this will not apply to Illinois

January 1, 2020: state must be fully-compliant with REAL ID or their residents cannot fly using their driver's licenses