

# REAL ID: WHY DOES MY NEW YORK DRIVER'S LICENSE HAVE TWO EXPIRATION DATES?

*Smarter Way to Cross Blog Archives*  
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Driver's licenses in New York are generally valid for eight years. I just checked mine and see that it was last renewed in 2011 for an eight-year term expiring on my birthday in 2019. The issuance date and expiration date are clearly shown at the bottom of the card. To make it even clearer for the reader, the expiration date is printed boldly in red.

Foreign nationals living in New York as students or temporary workers and their family members have a second, more prominent legend in middle of the card, printed in red and in all capitals: TEMP. VISITOR EXP. [DATE].

We receive many anxious calls from clients concerned that their lawful driving privileges in New York will end on the "temp. visitor" expiration date. This is an understandable concern because §509 of the New York Vehicle and Traffic Law states that driving without a license can be punished by a fine of up to \$300 and/or imprisonment for up to 15 days. Worse yet, §511 provides that knowingly driving on a suspended or revoked license is a misdemeanor with even more severe penalties. However, those concerns are unfounded. There is no expiration, suspension, or revocation associated with the "temp. visitor" date. The license remains valid after that date, for the duration of the license term.

What then is the purpose of the "temp. visitor" legend? The answer is found in the federal legislation referred to as the Real ID Act, which was part of legislation titled the "Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005." This legislation was enacted in response to the recommendations of the July 2004 report of the National Commission on Terrorist Attacks Upon the United States (also known as the 9/11 Commission). The 9/11 Commission noted that "[a]ll but one of the 9/11 hijackers acquired some form of U.S. identification document, some by fraud...[and] these forms of identification would have assisted them in boarding commercial flights, renting cars, and other necessary activities." It recommended that "national standards be set for the issuance of birth certificates and driver's licenses to prevent their fraudulent acquisition."

The Real ID Act implemented those recommendation by prescribing minimum standards for information and features on state-issued driver's licenses and personal identification cards, as well as standards for machine-readable technology, with defined minimum data elements, for the cards themselves. One of the key requirements for a Real ID compliant document was proof of the applicant's lawful immigration status in the United States.

The imposition of federal requirements for issuance of state-issued documents created a classic clash of federal/states rights on both constitutional and political grounds. Immigrant advocate groups fought the measure on the grounds that it violates civil liberties and privacy. States were concerned that the act would lead to an increase in unlicensed and uninsured drivers, thereby creating a threat to public safety.

Knowing full well that it could not impose the requirements on the states unilaterally and directly, the federal government took the oft-used indirect approach of denying important federal benefits to noncompliant card holders. The Real ID Act bars federal agencies from accepting state-issued documents that do not meet minimum issuance and record-keeping standards as proof of identification at airports, federal buildings, or when applying for federal benefits.

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The road to compliance and enforcement has been a long one, with frequent postponements. The original three-year rollout of the program was postponed several times, and as of December 31, 2013, only 21 states were in full compliance, not including New York. However, the Department of Homeland Security recently announced a four-phase enforcement plan for the Real ID Act between 2014 and 2016. The first three phases will require compliant ID for access to certain types of federal facilities and nuclear power plants by January 19, 2015. The date for implementing phase four will be set after an evaluation of the first three phases, but will not occur before 2016. The full DHS announcement can be found [here](#).

Although New York is still not fully Real ID-compliant, it was one of the first states to add immigration status information on the licenses of foreign nationals in the form of the “temp. visitor” legend. Other states, such as Texas, are even more restrictive. Foreign nationals in Texas receive a driver’s license or ID card containing a “limited term” legend and an expiration date corresponding to the person’s immigration status document. This has created practical and legal problems for those licensees, primarily because one’s lawful immigration status is often eligible for changes and extensions over long timeframes totaling many years. Subsequent routine extensions under the immigration law system require the licensee repeatedly to undergo the meaningless application process for an updated card – meaningless because the person’s immigration law status is governed and controlled entirely by the federal Homeland Security system.

Immigrant advocate groups have opposed the inclusion of immigration status legends on state documents, arguing that they can lead to discrimination and unfair treatment of legal immigrants as well as reasonable confusion, even among the licensees, about the validity of licenses themselves. A major concern was that law enforcement agencies would view the license as evidence of immigration status and/or detain the person until adequate evidence of status could be produced.

And those concerns are entirely justified. The granting, maintenance, duration and extension of lawful immigration status are matters that are subject to extremely complicated and arcane rules and procedures that are beyond the purview of state agencies. Some individuals with perfectly valid immigration status have been denied licenses, and updates or renewals thereof, because of the state worker’s unfamiliarity with the immigration law rules or the refusal to accept valid evidence. It is the ultimate irony that cards designed to be so secure and genuine can be so flawed and unreliable with respect to immigration status data.