

The Firm Line

Welcome to *The Firm Line*, a newsletter designed to inform our clients and friends about developments at the firm, legal issues that may impact your lives and businesses, and other items of interest. Our intention is to keep the information we provide to you in this newsletter concise. We welcome any further discussion on the topics discussed herein and hope that *The Firm Line* will provide you with interesting and noteworthy information about the law and our firm.

The REAL ID Act and What it Means for Travelers in 2013

Are you ready to show your passport at the airport? Starting as soon as this fall, you might have to if you live in Louisiana or many other states that remain out of compliance with a federal law governing driver's licenses.

History of the REAL ID Act of 2005 and Louisiana's Opposition to the Act

In 2005, as part of the 9/11 Commission recommendations, Congress passed the REAL ID Act, PL 109-13, 119 Stat 231, which requires the creation of standardized driver's licenses and identification cards nationwide in order to reduce fraud and enhance national security. The implementing regulations promulgated by the Department of Homeland Security (DHS) detail the complete standards to be met to achieve full compliance with the law, including facial image capture of every applicant for a driver's license, document authenticity, data sharing between states, new card security measures, increased security within ID-issuing agencies, and verification of non-citizen applicants' lawful status. The Act prohibits federal authorities from accepting noncompliant identification from people seeking access to airplanes and federal facilities. Since its passage, the REAL ID Act has been highly contested among state leaders and advocacy groups. Indeed, between 2006 and 2012, 26 states (including Louisiana) took legislative action formally opposing the REAL ID Act. The Louisiana law, which was passed in 2008, prohibits the state from making certain changes to driver's licenses that are necessary to comply with the federal law, citing the high expected cost of compliance with the federal law as well as potential breaches in privacy that could result from compliance. See Acts 2008, No. 807.

Current Status of REAL ID in Louisiana and Nationwide

As of spring 2013, eight years after passage of the REAL ID Act, only 19 states - Alabama, Colorado, Connecticut, Delaware, Florida, Georgia, Iowa, Indiana, Kansas, Maryland, Nebraska, Ohio, South Dakota, Tennessee, Utah, Vermont, West Virginia, Wisconsin, and Wyoming - were deemed REAL ID-compliant by DHS, though a majority of states have committed to working toward compliance. In fact, notwithstanding

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Suggestions

Please provide us with ideas and suggestions for topics that you would like to read about in the future, as well as any thoughts you may have that will help us deliver better, more insightful information to you.

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the 2008 legislation, Louisiana's Office of Motor Vehicles is working on many REAL ID security enhancements which should be completed by October 2013.

REAL ID compliance was raised at the 2013 regular session of the Louisiana state legislature which ended earlier this month. Senator Robert Adley proposed an amendment to a senate bill (SB 395) which would have required the Department of Public Safety and Corrections (of which the Office of Motor Vehicles is a part) to make available driver's licenses which comply with the REAL ID Act. The proposed amendment also would have allowed drivers to elect not to be issued a REAL ID-compliant license which would not be accepted as identification by federal agencies. However, the proposed amendment was not acted upon by the Senate Committee on Transportation, Highways and Public Works Committee. Rather, due to the conflict between the 2008 act and the 2013 proposed amendment, the state legislature passed a resolution, proposed by Senator Jonathan Perry, establishing a task force to study issues related to the REAL ID Act of 2005 and to make recommendations on whether Louisiana should implement the Act. See Senate Concurrent Resolution 119. The task force is to hold its first meeting no later than September 15, 2013 and issue a written report not later than 60 days prior to the 2014 regular session of the legislature.

When will REAL ID be enforced?

The original Department of Homeland Security regulations required that all states be in full compliance with the REAL ID Act by May 2008. However, that deadline has been extended several times, most recently until January 15, 2013. (Once states achieve compliance with REAL ID, federal regulations require them to issue compliant driver's licenses to individuals under the age of 50 by December 1, 2014 and individuals over the age of 50 by December 1, 2017.) During the summer and fall of 2012, Louisiana and other non-compliant states attempted to resolve the issue with the federal government so that residents of those states could continue using their state driver's licenses as identification at airports rather than needing a passport for air travel. On December 20, 2012, DHS issued a press release announcing that beginning on January 15, 2013, those states not in compliance with REAL ID standards would receive a temporary deferment of enforcement. Since December, as authorized by DHS, federal agencies have continued to accept state-issued driver's licenses and identification cards from those states for boarding commercial aircraft and other official purposes, such as entering a federal facility. However, that could change in the next few months. By early fall of 2013, DHS expects to publish a schedule for phased-in enforcement of REAL ID, and it plans to "begin implementation at a suitable date thereafter."

Further action by DHS - either an enforcement schedule or another extension - will be an issue of interest in Louisiana and other noncompliant states in the coming months. In the meantime, it may be a good idea to renew those passports soon just in case.

Katie Lasky Receives Outstanding Volunteerism Award from the Louisiana State Bar Association

This month, Jones, Swanson, Huddell & Garrison, LLC attorney [Katie E. Lasky](#) received the LSBA 2013 Leah Hipple McKay Memorial Award for Outstanding Volunteerism at the LSBA Annual Meeting in Destin, Florida. The award, which was created in memory of Leah Hipple McKay, LSBA member and wife of former LSBA President, Michael W. McKay of Baton Rouge, is presented each year to a Louisiana lawyer or judge who has made significant long-term volunteer efforts throughout his or her career. A deeply committed volunteer, Katie serves as chair of the board of directors of the New Orleans Pro Bono Project, received the 2006 Pro Bono Publico Award from the LSBA for her outstanding pro bono service to Louisiana's indigent, and has been recognized by the Pro Bono Project as a 100-plus hour volunteer every year since 2007. She was instrumental in starting the "Food from the Bar" program in New Orleans, designed to help lawyers support local food banks in their efforts to feed children during the summer months. Among her many other community service efforts, Katie has served lunch at the Ozanam Inn (a local homeless shelter) for the past ten years, regularly provides notarial services at homeless outreach centers, and in 2003 took on a three-year volunteer commitment to the Boys Hope/Girls Hope program.



New Attorney Joins the Firm's Commercial Litigation Practice Group as Of Counsel

Jones Swanson Huddell & Garrison LLC is pleased to announce that [Matthew J. Lindsay](#) has joined the firm as Of Counsel and will practice in the firm's commercial litigation practice group.



Matthew received his J.D. from the University of Tennessee, where he received the Dean's Citation for Extraordinary Contributions to the College of Law. He received his B.A. from Yale University in 2002, and served on the Board of Directors for the Yale Club of New Orleans. Prior to joining Jones Swanson, Matthew worked for the City of New Orleans as Deputy Chief of Litigation, where, among other responsibilities, he served as lead attorney on all First Amendment issues asserted against the City and its public officials. In addition to his work with the City of New Orleans, Matthew served for four years as an associate at Galloway, Johnson, Tompkins, Burr & Smith.

ABOUT THE FIRM

Jones, Swanson, Huddell & Garrison, L.L.C., is a boutique litigation law firm based in New Orleans, Louisiana, handling complex commercial and environmental disputes. The firm's attorneys have served as lead counsel in litigation pending in Alabama, California, Florida, Mississippi, New York, and of course, Louisiana. In the commercial and environmental litigation arenas, the firm has represented and continues to counsel many of Louisiana's and the Southeast's leading landholders and entrepreneurs, while also retaining a focus on the representation of small businesses and individuals.



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