

# Liberty Tree

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## Identity Prison

### Proof and Verification in the REAL ID Act

A national ID system is being cemented onto these States united via the totalitarian “REAL ID” scheme, as we have discussed in the March 2018 and March 2019 issues of *Liberty Tree*. There are many aspects of REAL ID that deserve attention, including the inclusion of digitized photographs in all ID cards and driver’s licenses — so that a free people, each made in God’s image, can be stalked via facial recognition software. State laws which make it illegal for any person to hold more than one ID or DL at a time, combined with databases to enforce those provisions, are also of concern. And Yes, Virginia, alphabet agencies *do* want to track you everywhere, all the time.

We have laid aside many troubling aspects for now in order to concentrate on a deception practiced by many States’ vehicle agency goons: that in order to get a REAL ID-compliant license from your State,<sup>1</sup> you must have a social security account number. As previously pointed out, there is no legal requirement to obtain an SSN unless one wishes to receive federal benefits, and it is unconstitutional to mandate anyone to receive federal benefits. People living in the United States

do not have to have SSNs, and quite a few still do not — especially those whose patriot parents *refused to apply for an SSN* for their children.

#### State bureaucrats wrong on the law

An instructive example of the legal stance taken by many State vehicle agencies can be seen in a recent filing in the State of Maryland, where lawyers for Maryland’s MVA<sup>2</sup> stated boldly that the



agency refused to issue a learner’s permit to an applicant because “he failed to provide a Social Security Number, for which he is eligible but refuses to apply.”<sup>3</sup> This was followed

#### PART III

by filings in which the same lawyers emphatically stated that an SSN is required for a REAL ID-compliant license; a statement contrary to both federal and Maryland law.

As we warned would happen back in 2012, the MVA attorneys have confused “*the opportunity to take action and apply* for a number with meeting the legal qualifications to receive that number.”<sup>4</sup> Indeed, the statement that a person “refuses to apply” for an SSN is an *admission* that application is required.

#### Want an SSN? You must apply.

The Commissioner of Social Security has two duties which involve SSNs: to track credits earned by workers, and to pay out benefits (42 U.S.C. § 405(c)(2)(A) and (F)). In carrying out those duties, the Commissioner has authority to issue SSNs to *applicants* for benefits, see 42 U.S.C. § 405(c)(2)(B)(i)(II):

(B)(i) In carrying out the Commissioner’s duties under subparagraph (A) and subparagraph (F), the Commissioner of Social Security shall take affirmative measures to assure that social security account numbers ... be assigned ...

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1. An ID card that the federal government will accept in order to allow you to board a commercial airliner and enter certain federal facilities. But note that federal courts are always open; no ID is required to enter a courthouse, just submission to metal detection and an x-ray of one’s belongings (We the People having become inured to such unconstitutional searches.)
2. Motor Vehicle Administration.
3. June 22, 2018 motion to dismiss filed in Maryland’s Court of Special Appeals, Case No. 0715, September Term 2018 (*Geppert v. Chaffee, et al.*).
4. See July 2012 *Liberty Tree*, “WHO IS ELIGIBLE ... or not?”

**el·i·gi·ble** (el/i jə bəl), *adj.*

**2. meeting the stipulated requirements, as to participate, compete, or work; qualified.**

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(II) to any individual who is an applicant for or recipient of benefits under any program financed in whole or in part from Federal funds including any child on whose behalf such benefits are claimed by another person; ... (emphasis added)

Further, at 42 U.S.C. 405(c)(2)(B)(ii), the Commissioner is mandated to “require of applicants for social security account numbers such evidence as may be necessary to establish the age, citizenship, or alien status, and true identity of such applicants, and to determine which (if any) social security account number has previously been assigned to such individual.”

Thus, any person wanting the assignment of an SSN must complete an application and provide evidence of identity, age, and federal status. See, *e.g.*, 20 C.F.R. § 422.103(b), “An individual needing a Social Security number may apply<sup>5</sup> for one by completing a prescribed application and submitting the required evidence.” Describing how numbers are assigned, at 20 C.F.R. § 422.103(c)(1): If you complete a prescribed application, we will require you to furnish evidence, as necessary, to assist us in establishing your age, U.S. citizenship or alien status, true identity, and previously assigned Social Security number(s), if any.

### **Eligibility: meeting the first requirement**

**A**gain, the REAL ID Act of 2005 requires the States to pass laws and implement procedures for “minimum issuance standards” imposed by Congress for compliant State driver’s licenses. One of the issuance standards is, as stated by the Act, that an applicant for a State DL or ID provide either “Proof of the person’s social security account number or verification that a person is *not eligible* for a social security account number.” (See § 202(c)(1)(C) of the Act).

**eligible, adj. (15c) Fit and proper to be selected or to receive a benefit; legally qualified for an office, privilege, or status.**

“Eligible” has generally been defined at law in terms of a person’s suitability or fitness to be chosen, as in “eligible” to be elected to public office. With the advent of welfare benefits and the conversion of travel by automobile into a so-called “privilege,” legal authorities now define the word to include “fit and proper ... to receive a benefit; legally qualified for [a] privilege [or] status.” *Black’s Law Dictionary*, 10th Edition.

Thomsen’s *Dictionary of the Law*, 4th Edition, specifically defines “eligibility” as: “Being legally qualified. For example, *eligibility* for Social Security benefits means meeting all the legal requirements

to get the benefits.”

Perhaps the most helpful definition, however, is this one from the *Random House Dictionary of the English Language*, 2nd Ed. (1987): “meeting the stipulated requirements, as to participate, compete, or work; qualified.”

And what is the first and foremost *stipulated requirement* for a social security number? **To make application.** As the SS-5 Form, *Application for a Social Security Card*, itself states in its “Privacy Act Statement”: “The information you provide *will be used to assign you a Security number* and issue a Social Security card. ... The information you furnish on this form is voluntary. ... failure to provide the requested information may prevent us from issuing you a Social Security number ...”<sup>6</sup>

**O**f course, the failure of a citizen to apply at all will *certainly* prevent the SSA from issuing a number. A non-applicant cannot be eligible for the issuance of an SSN, because he hasn’t met the very first requirement: making an application.

Keep in mind that the Commissioner is authorized to *ensure* that all applicants, to the maximum extent possible, be assigned numbers. This means that all persons who are *eligible* — have made application and meet the requirements — have numbers! Conversely, all persons who are *ineligible* — have not made application or have not met requirements in some other way — *do not* have numbers.

Thus, unless a person voluntarily *applies* for an SSN or federal benefits, and supplies the Commissioner with all necessary information to be issued a number, he is both *ineligible* for the assign-

**Eligibility** Being legally qualified. For example, *eligibility* for Social Security benefits means meeting all the legal requirements to get the benefits.

5. “[M]ay apply”: recall that participation in Social Security is entirely voluntary, as mandating participation in such schemes lies *outside* of congressional power. See *Railroad Retirement Board v. Alton Railroad Co.*, 295 U.S. 330, 368 (1935).

6. All emphases throughout, unless otherwise noted, have been added.

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ment of a number, and *does not have* a number. Indeed, because the only way to acquire a number is through application, saying a person is “not eligible” for a number is functionally the same as saying that he “does not have” a number.

When this is understood, it becomes clear that persons *without* SSNs are specifically included in the federal REAL ID Act as persons who meet the minimum issuance standards: they are simply called persons “not eligible” for SSNs.

### No need to prove a negative

There is yet more to understand about the “minimum” issuance standards for IDs and DLs required to be set in place by the State. Let’s revisit the key standard with respect to the applicant’s SSN or lack thereof, and pay attention to two more terms: an applicant must provide either “*Proof* of the person’s social security account number or *verification* that a person is not eligible for a social security account number.”

Courts have held repeatedly that every word in a statute has meaning. Congress is presumed to know the meaning of words, and to use them purposefully in statutes. And here, the difference in terms is obvious and significant. In prescribing procedures to be adopted by the States, Congress defined a *different procedural requirement* for persons with SSNs than for per-

sons without SSNs.

“Proof,” according to *Black’s Law Dictionary*, 7th Ed., is “an attested document that constitutes legal evidence.” The Department of Homeland Security promulgated final rules to determine if a State is compliant,<sup>7</sup> including documents DHS considers minimum proof of SSN, at 6 C.F.R. § 37.11(e): (i) A W-2 form, (ii) A SSA-1099 form, (iii) A non-SSA-1099 form, or (iv) A pay stub with the applicant’s name and SSN on it.

“**V**erification,” according to *Black’s Law Dictionary*, 7th Ed., is “a formal declaration made in the presence of an authorized officer, such as a notary public, by which one swears to the truth of the statements in the document.” DHS has promulgated *no* rules regarding this verification requirement for those ineligible for SSNs; the law itself is clear that only a declaration of the applicant himself is required. Further, 6 C.F.R. § 37.11(b) mandates the State to require an applicant to “sign a declaration under penalty of perjury that the information presented on the application is true and correct.” So when a State requires an applicant for an ID or DL to make a formal declaration under penalty of perjury (before a person authorized to take oaths)

that he does not have, or is not eligible for, an SSN, that State is in conformance with REAL ID requirements. Such an applicant, then — without an SSN! — is to be

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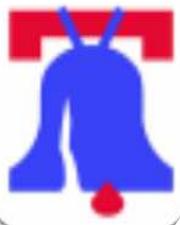
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given a REAL ID compliant license.

### Unequal treatment of persons without SSNs

REAL ID is implemented by the States through their own laws, since the States have jurisdiction over issuing their own IDs and DLs. In passing their own laws, some States have implemented the minimum issuance standards to issue licenses to persons without SSNs, but some States have not. For example, Tennessee tracks the REAL ID requirement, but does not use the term “eligible.” Tenn. Code Ann. § 55-50-321 (c)(1)(B) states: “Any applicant who does not have, or who states that the applicant has never been issued, a social security number required by subdivision (c)(1)(A) shall complete an affidavit, under penalty of perjury, affirming that the applicant has never been issued a social security number.” All that is required is an affidavit, *i.e.*, a verification.

Colorado’s statute similarly states, at C.R.S. § 42-2-107(3)(a):



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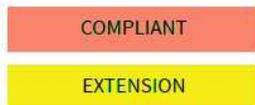
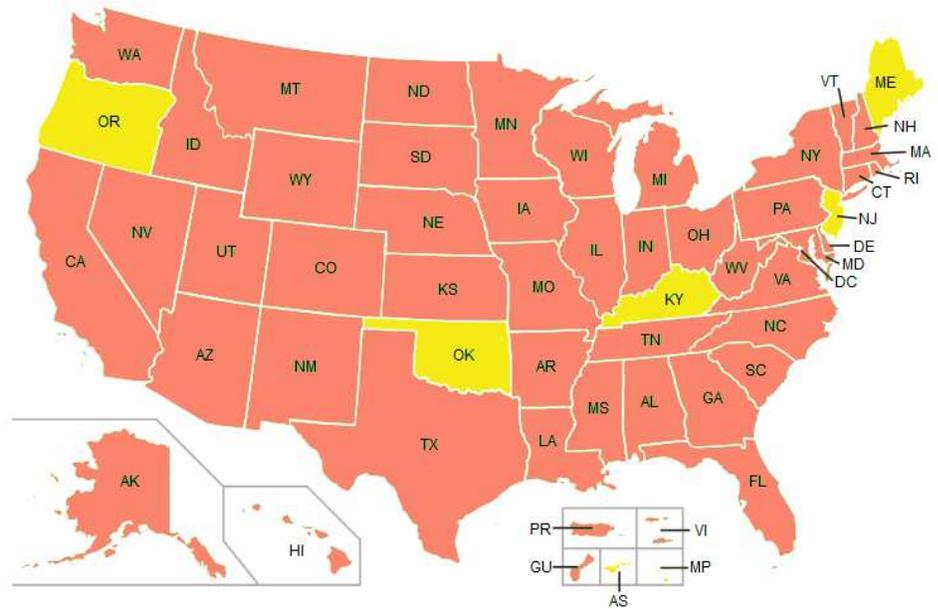
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“applicant shall submit a sworn statement made under penalty of law, together with the application, stating that the applicant does not have a social security number.” Note that DHS has certified that Tennessee’s and Colorado’s provisions, where an applicant only has to provide verification that he *does not have* an SSN, are REAL ID Act compliant. This demonstrates that an applicant with no SSN is at one and the same time “not eligible” for an SSN! And again, because no federal law, including the REAL ID Act, requires a person to apply for and obtain an SSN, such persons are entitled to REAL ID compliant licenses to the same extent as persons with SSNs.

However, while DHS certified Tennessee and Colorado as REAL ID compliant, it also certified Pennsylvania, and its statute is appalling. At 75 Pa. C.S.A. Vehicles § 1510 (a), “an applicant shall include his Social Security number on his license application,” but at § 1510(f), the Pennsylvania legislature has stated: “Notwithstanding the provisions of subsection (a), the department shall issue a driver’s license to an otherwise eligible person who has no Social Security number if the person submits a *waiver* obtained from the Federal Government *permitting* him not to have a Social Security number.” The statute even allows the bureaucrats to “require” identifiers such as taxpayer id numbers before issuing a license. These provisions have also been certified by DHS as REAL ID Act compliant, yet they are clearly outside the ambit of the Act. How would a person obtain a “waiver” from the “Federal Government” *permitting* him not to have an SSN, when he is *not required* to have an SSN in the first place? No federal agency is authorized or equipped to provide such “waivers.” The Pennsylvania legislature has prescribed an impossibility; its provision is void



## The communist POLICE STATE cometh!

At the time of this issue, only five States and one territory are not certified “compliant” States by DHS for the purposes of federal REAL ID. Those States have been granted “extensions,” so are on board to be certified in the near future.

Source: [www.dhs.gov/real-id](http://www.dhs.gov/real-id)

on its face, being entirely vague and in violation of federal law. Obviously, this is not only immaterial to the DHS thugs, but they also approve it.

Nevertheless, State provisions which are at odds with each other demonstrate that, at a minimum, persons who do not have SSNs — a federal number — are not receiving equal treatment under the laws of the States with respect to the federal provisions for that number. This issue has not yet arisen, to our knowledge, before a federal court. Hopefully, a patriot without a number, yet who desires a State ID or DL, will have the patience and foresight to thoughtfully prepare this issue. (We do not encourage anyone to do this on their own, however — many bad decisions by the courts have been made in this way, and those decisions are then used by bureaucrats to violate the rights of others.)

### Summing up

We have seen that no SSN is required of a person who desires a REAL ID compliant license or ID card, and all that is required of a

person who has never applied for an SSN is their own formal declaration that they don’t have, or that they are “not eligible” for, an SSN.

No bureaucrat or State legislature has power to deny a citizen or alien with lawful presence in the United States a license because he doesn’t have an SSN. In the final analysis, the SSN is a number created by the federal government for the sole purpose of tracking welfare credits and benefits, and no one, whether State or federal official, has the power to make a person apply for one. Spread the news.



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