



ISSUED:

March 4,  
2026

**STATE OF INDIANA  
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS**

**Petitioner,**

**v.**

**Bureau of Motor Vehicles,**

**Respondent.**

**Administrative Case Number: BMV-2510-005385**

**Ultimate Authority:** Office of Administrative Law Proceedings

**FINAL ADMINISTRATIVE DECISION**

The Administrative Law Judge (ALJ) J. Matthew R. Howerton, having heard the evidence and arguments presented in this matter, now issues this Final Order addressing the decision by the Bureau of Motor Vehicles (Respondent) to deny a non-REAL ID Act-compliant credential to [REDACTED] (Petitioner). This decision is favorable to the Respondent. Any party dissatisfied with this decision may appeal. Appeal instructions are at the end of this document.

**Jurisdiction**

The ALJ assigned to this matter by the Director of the Office of Administrative Law Proceedings (OALP), see Ind. Code § 4-15-10.5-13, has jurisdiction over this case pursuant to Indiana Code § 4-15-10.5-12, which gives OALP jurisdiction over agency administrative actions subject to the Indiana Administrative Orders and Procedures Act at Indiana Code Art. 4-21.5 (AOPA) or "any other statute that requires or allows the office to take action." The OALP has jurisdiction over this case because this case is governed by AOPA.

**Issue**

The issue(s) in this case are: Whether the Petitioner should be issued a credential that is not REAL ID Act-compliant.

## Procedural History

1. On October 3, 2025, the Respondent issued an action letter to the Petitioner informing him that it had denied his application for a non-REAL ID Act-compliant credential.
2. The Petitioner filed a Petition for Administrative Review with OALP on October 17, 2025.
3. A telephonic Initial Prehearing Conference (IPHC) was held on November 18, 2025, using the Zoom platform. The Petitioner appeared self-represented. The Respondent was represented by Administrative Hearings Attorney Laura Keith (Attorney Keith).
4. The telephonic Evidentiary Hearing was held on January 22, 2026, using the Zoom platform. The Petitioner appeared self-represented. The Respondent was represented by Attorney Keith. Michele Lyda appeared as a witness for the Respondent.
5. The following Exhibits were admitted into evidence by the ALJ at the Evidentiary Hearing:
  - a. Petitioner's Exhibit 1, Citizen's Council for Health Freedom Letter RE: Docket NO. TSA 2023-0003/ RIN 1652-AA77 Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes; Phased Approach for Card-Based Enforcement (6 pages).
  - b. Petitioner's Exhibit 2, The American Association of Motor Vehicle Administrators (AAMVA) Testimony Before the United States House of Representatives Committee on Homeland Security Subcommittee on Transportation and Maritime Security (4 pages).
  - c. Respondent's Exhibit A, BMV Letter to the Petitioner dated October 3, 2025 (1 page).
  - d. Respondent's Exhibit B [REDACTED] Operator's License Application dated February 28, 2018 (7 pages).
  - e. Respondent's Exhibit C, Excerpt from TSA Official Website FAQ dated May 27, 2025 (3 pages).
6. Upon request of the Respondent, pursuant to Ind. Code § 4-21.5-3-26(f), and without objection by the Petitioner, the ALJ took official notice of the following:
  - a. 140 Ind. Admin. Code 7-11-3
  - b. Ind. Code § 9-24-11-2

## Findings of Fact

1. The Respondent began issuing credentials that are compliant with the REAL ID Act of 2005 in 2010 (Lyda Testimony). These credentials are Indiana state-issued identification documents that comply with the specific security standards set forth in the REAL ID Act to safeguard the integrity of identification credentials and protect individuals' identities (Lyda Test.).
2. On February 28, 2018, the Petitioner applied to amend his Indiana driver's license to what was then called a "Secure ID" (Resp. Ex. B). At that time, his driver's license was not set to expire until December 8, 2022 (Resp. Ex. B at 1, 3).
3. "Secure ID" is the term that the Respondent used for REAL ID Act-compliant credentials issued by it until some time in 2018 when it began referring to such credentials as "REAL ID" (Lyda Test.).
4. As verification of his identity, citizenship, residency, and Social Security number, the Petitioner provided the Respondent with copies of his United State passport, Indiana driver's license, Social Security card, Evansville Water and Sewer Utility bill dated February 12, 2018, and US Bank Home Mortgage statement February 12, 2018 (Resp. Ex. B at 3-6). The Petitioner also provided a signed Affidavit of Mailing Address verifying his mailing address (Resp. Ex. B at 7).
5. By signing the application, the Petitioner authorized the Respondent "to verify all information that [he had] provided, including [his] identity, lawful status, residency, and Social Security number or supporting documentation, and any other documentation provided" (Resp. Ex. B at 2).
6. Based on his application and provided documentation, the Respondent issued a REAL ID Act-compliant credential to the Petitioner (Totality of the Evidence).
7. In 2025, the Petitioner applied for a non-REAL ID Act-compliant credential, and the Respondent denied that request in its action letter dated October 3, 2025 (Resp. Ex. A).

## Conclusions of Law

1. When holding an administrative hearing, an administrative law judge serves as a trier of fact and must apply a de novo standard when making finding of facts and conclusions of law. Ind. Code § 4-21.5-3-14(d); *Indiana-Kentucky Elec. Corp. v. Comm'r, Indiana Dep't of Env't Mgmt.*, 820 N.E.2d 771, 781 (Ind. Ct. App. 2005); *Indiana Dep't of Natural Res. v. United Refuse Co., Inc.*, 615 N.E.2d 100, 104 (Ind. 1993).

2. The dispositive issue in this appeal is whether the Petitioner should be issued a credential that is not compliant with the REAL ID Act.
3. The Petitioner bears the burden of proof to show by a preponderance of evidence that he should be issued a credential that is not compliant with the REAL ID Act. Ind. Code § 4-21.5-3-14(c); see IC § 4-21.5-5-14(d)(5); see *Indiana Dep't of Nat. Res. v. Krantz Bros. Const. Corp.*, 581 N.E.2d 935, 938 (Ind. Ct. App. 1991).
4. The Respondent is the state agency responsible for the administration of driving privileges and driver's licenses in Indiana. IC § 9-14-8-3(3)(A).
5. An Indiana resident must have a valid driver's license or permit issued by the Respondent to operate a motor vehicle. IC § 9-24-1-1.
6. The REAL ID Act of 2005 sets out minimum document requirements and issuance standards for federal recognition of credentials issued by state driver's licensing agencies. Pub. L. No. 109-13, Div. B, Title II, May 11, 2005, 119 Stat 231.
7. A REAL ID Act-compliant credential issued by a state driver's licensing agency may be used for "accessing Federal facilities, boarding Federally-regulated commercial aircraft, and entering nuclear power plants." 6 CFR § 37.3; 6 CFR § 37.5(b).
8. In order to issue REAL ID Act-compliant credentials, states must comply with REAL ID Act-related regulations promulgated by the Department of Homeland Security. See 6 CFR § 37.51. States that comply with the REAL ID Act may choose to continue issuing non-REAL ID Act-compliant credentials, but those credentials must be visually distinct from the state's REAL ID Act-compliant credentials. 6 CFR § 37.55.
9. Following the passage of the REAL ID Act, the General Assembly amended Indiana's driver licensing statutes, and the Respondent promulgated new regulations to bring Indiana into compliance with the requirements of the REAL ID Act. See *Indiana Bureau of Motor Vehicles v. Simmons*, 233 N.E.3d 1016, 1025 (Ind. Ct. App.), *aff'd as modified*, 236 N.E.3d 1159 (Ind. Ct. App. 2024), and *transfer denied*, 248 N.E.3d 1196 (Ind. 2024).
10. The Respondent currently issues REAL ID Act-compliant credentials to individuals who supply documentation consistent with the requirements of the REAL ID Act and associated federal regulations but also issues credentials that are not REAL ID Act-compliant to those who already hold a non-REAL ID Act-compliant Indiana credential and do not supply the necessary documentation. See 140 IAC 7-1.1-3(a).

11. The Respondent only requires the submission of documentation required by the REAL ID Act once, therefore once an Indiana resident has been issued a REAL ID Act-compliant credential, all subsequent credentials issued to that individual by the Respondent will be REAL ID Act-compliant as well. See 140 IAC 7-1.1-3(b).
12. As an initial matter, the Petitioner argues that the Respondent's action was unconstitutional. Generally, the ability of an ALJ to rule on constitutional claims is limited, and an ALJ cannot decide whether a statute is unconstitutional because that is a power reserved for the courts. See *Sunshine Promotions, Inc. v. Ridlen*, 483 N.E.2d 761, 765 (Ind. Ct. App. 1985). Nevertheless, when a party raises any constitutional claims before an administrative tribunal, it must still make the necessary factual findings to allow a court to review and resolve such issues if the party subsequently raises those claims on judicial review. See *Osborn v. Schultz*, 238 N.E.3d 730, 734 (Ind. T.C. 2024).
13. To the extent there are constitutional arguments here that the ALJ could decide, those arguments are too poorly developed to properly address. The Petitioner has not specifically identified what provisions of the federal or state constitutions that the Respondent's action under appeal here violates or otherwise explained how they are unconstitutional beyond conclusory statements. The ALJ cannot act as an advocate for a party by developing arguments that the parties have not developed for themselves and therefore concludes the Petitioner's constitutional argument fails. See *Basic v. Amouri*, 58 N.E.3d 980, 984 (Ind. App. Ct. 2016).
14. To the extent that the Petitioner argues that the Respondent should not have issued a REAL ID Act-compliant credential to him in the first place in 2018, he was required to appeal that action by filing a Petition for Review within fifteen days. IC § 4-21.5-3-7(a)(3)(A). Because more than seven years passed between the Respondent's first issuance of a REAL ID Act-compliant credential to the Petitioner and the filing of the Petition for Review under consideration here, any such arguments are untimely.
15. Untimeliness notwithstanding, the ALJ finds no error in the initial issuance of a REAL ID Act-compliant credential to the Petitioner. His 2018 application, which he signed multiple times, indicated that he was applying for a "Secure ID" and authorized the Respondent to verify all the information and documentation that he had provided. He also provided copies of his United State passport, Indiana driver's license, Social Security card, Evansville Water and Sewer Utility bill dated February 12, 2018, and US Bank Home Mortgage statement February 12, 2018, all of which are required documents to be issued a REAL ID Act-compliant credential. 6 CFR § 37.11; 140 IAC 7-1.1-3(b). The Petitioner argues that he did not knowingly request a REAL ID Act-compliant credential, particularly given the use of the "Secure ID" terminology in 2018, but has provided no legal basis for the proposition that a lack of actual

knowledge renders the issuance of a REAL ID Act-compliant credential erroneous. Moreover, even if there was some legal basis for that argument, the evidence shows that the Petitioner requested to amend his driver's license to a "Secure ID" well before it would have expired, willingly provided all documents necessary to obtain a REAL ID Act-compliant credential, and signed the application for a "Secure ID" multiple times, including to authorize the Respondent to verify his identity and the information he had provided. This evidence leads to the conclusion that the Petitioner knowingly and voluntarily requested a REAL ID Act-compliant credential in 2018.

16. Finally, there is no statutory or regulatory basis for the Petitioner to be issued a credential that is not REAL ID Act-compliant now. Individuals are required to submit the documents necessary for a REAL ID Act-compliant credential to the Respondent only once. 140 IAC 7-1.1-3(b). Furthermore, the Respondent is required to retain those documents. 6 CFR § 37.31. The Petitioner provided all of the documents necessary to receive a REAL ID Act-compliant credential to the Respondent, the Respondent must retain those documents in its records, and therefore every credential issued by the Respondent to the Petitioner will necessarily be REAL ID Act-compliant.

### **Decision and Order**

The ALJ AFFIRMS the agency action to deny the Petitioner's application for a non-REAL ID Act-compliant credential.

So ordered on: March 4, 2026.

/s/J. Matthew R. Howerton  
Hon. J. Matthew R. Howerton  
Administrative Law Judge  
Office of Administrative Law Proceedings

### **Appeal Rights**

A person who wishes to seek judicial review of this final determination must file a petition for review in an appropriate court within 30 days of the date this Order was served. See Ind. Code §4-21.5-5-5. Guidance for calculating deadlines may be found at Indiana Code § 4-21.5-3-2.

Other requirements for a petition for judicial review may be found at Indiana Code chapter 4-21.5-5. A petition for judicial review must be served on the Office of Administrative Law Proceedings [OALP@oalp.in.gov](mailto:OALP@oalp.in.gov) to ensure the Office prepares the record that will be filed in the court presiding over the judicial review.

Distribution:

Petitioner [REDACTED]

Respondent, Bureau of Motor Vehicles, sent via e-mail at [lkeith@bmv.in.gov](mailto:lkeith@bmv.in.gov)