



State of West Virginia  
Office of the Attorney General

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Attorney General

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January 22, 2014

Honorable Earl Ray Tomblin  
Office of the Governor  
State Capitol  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305

Dear Governor Tomblin:

Our Office was recently contacted by a constituent concerning problems that he has encountered attempting to renew his driver's license. I write this letter to bring the issue to your attention and hopefully to facilitate a smooth resolution of this issue.

The constituent, Pastor Butch Paugh, is, because of a deeply held religious belief, opposed to the digital storage of his photograph. In 2008, when he last renewed his license, then-Governor Manchin made arrangements for an alternative procedure to be used for Pastor Paugh and his congregants. Specifically, while Pastor Paugh took a digital photograph, that photograph was deleted from the DMV database immediately after his driver's license was printed. However, when Pastor Paugh, along with several members of his congregation and other citizens, recently went to renew their driver's licenses and utilize these same processes, he was advised that the capture and storage of a digital photograph was required, and that no other arrangements were possible.

On his behalf, Senator Manchin then reached out to the U.S. Department of Homeland Security ("DHS"). A letter received in response to this inquiry from Kelli Ann Walther, Senior Director, Screening Coordination at DHS, advises that a driver's license issued by the West Virginia Division of Motor Vehicles that does not have a digital photograph on it will not be found to comply with the federal REAL ID Act of 2005.

West Virginia has taken steps to comply with the REAL ID Act of 2005, and, as of 2012, was determined by DHS to be in full compliance. However, nothing in this State Code or related regulations requires that a driver's license photograph be digitally stored. Nor do those statutes offer any alternative for those who have religious objections to having their photograph taken, although such an option is contemplated in the REAL ID Act itself. Specifically, the REAL ID Act permits States to issue non-compliant driver's licenses, so long as they are clearly distinguishable from compliant ones. Our review of State law uncovers no requirement that the

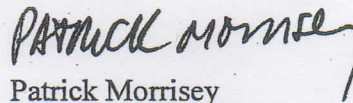
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photograph taken for a West Virginia driver's license be digitally stored. Rather, this requirement stems from federal law. Consequently, West Virginia should still be able to issue a driver's license without maintaining a digital file of that photograph.

I ask that your Office review this issue and work to ensure that Pastor Paugh can renew his West Virginia driver's license without violating the tenets of his deeply held religious beliefs.

Respectfully,

A handwritten signature in black ink, appearing to read "Patrick Morrissey", with a stylized flourish at the end.

Patrick Morrissey  
Attorney General

PM/lab

cc: Pastor Butch Paugh