



www.llmlaw.com

immigration@llmlaw.com

LL.M. Law Group
Immigration News
January 2008

Department of Homeland Security Issues Reminder of Citizenship Document Requirements at Ports of Entry as of 1/31/08

The Department of Homeland Security (DHS) issued a reminder that citizenship and identity documents will be required when entering the U.S. through land and sea ports of entry as of January 31, 2008. Entry will no longer be permitted by oral declaration of citizenship alone. According to a press released on January 18, 2008, "This change primarily affects United States and Canadian citizens, who have previously been permitted entry by oral declaration alone, and marks the transition toward standard and consistent documents for all travelers entering the country. It is also the start of a more robust and concerted public education campaign, intended to inform travelers of document requirements which will be implemented next year.

"For the safety of the American people, the United States cannot have an honor system at the border," said Homeland Security Secretary Michael Chertoff. "Requiring secure and reliable documentation at our borders will drastically reduce security vulnerabilities posed by permitting entry based on oral declarations alone. As travelers become accustomed to carrying documents to cross the border, and as we move to more stringent documentation requirements, our border officers will be able to more quickly and confidently identify cross border travelers."

Beginning Jan. 31 of this year, U.S. and Canadian citizens ages 19 and older should no longer expect that an oral declaration alone will be sufficient to prove identity and citizenship for entry into the country. Instead, travelers will be asked to present documentation from a specified list of acceptable documents when entering the U.S. at land and sea ports of entry. Examples include birth certificates and driver's licenses. A complete list of acceptable documents is available to travelers at ports of entry and is also available at www.cbp.gov. Travelers who do not present one of these documents may be delayed while U.S. Customs and Border Protection (CBP) officers attempt to verify their identity and citizenship. Children ages 18 and under will only need to present a birth certificate.

In order to further secure our borders against illegal entry, the U.S. will no longer be able to admit travelers based on nothing more than a person's oral assertion of citizenship. During October to December 2007 alone, CBP officers reported 1,517

cases of individuals falsely claiming to be U.S. citizens. Last month, CBP officials determined that an individual falsely claiming to be a U.S. citizen was wanted for homicide in California. This individual was paroled for entry into the U.S. and transported into the custody of the San Diego Sheriff's Department. Separately, multiple Government Accountability Office and Inspector General reports have highlighted weaknesses associated with oral declarations and substandard documentation. Standard and consistent documentation is critical for border officials to accurately determine admissibility into the United States. The Jan. 31 change is a step forward from the largely subjective standard that allowed travelers to present an almost limitless array of documents, such as baptismal certificates, to satisfy CBP officers of their citizenship. This change will allow frontline officers to standardize inspections against a narrower class of documents, and CBP has protocols in place to verify the authenticity of suspicious driver licenses and guard against the use of counterfeit or altered licenses.

The transition beginning Jan. 31 will allow travelers to become accustomed to the need to present appropriate documents. Travelers who apply for a passport card, passport, Trusted Traveler Program cards, or other secure documentation denoting both citizenship and identity in response to the Jan. 31 change will not need to take additional steps to meet the final WHTI requirements upon full implementation in June 2009. U.S. citizens may begin applying in advance for the new U.S. Passport Card on Feb. 1, 2008, in anticipation of land border travel document requirements. Click [here](#) to contact the LL.M. Law Group for assistance with this application.

CBP Fact Sheet for Travelers

Please click [here](#) to download a Customs and Border Protection (CBP) Fact Sheet to alert travelers about what to expect during an inspection and provides customer service contacts for travelers concerned about having been stopped or delayed by CBP.

HHS Releases 2008 Poverty Guidelines

The U.S. Department of Health and Human Services 2008 Poverty Guidelines may be found [here](#). Please [contact](#) the LL.M. Law Group to discuss the application of the Poverty Guidelines to immigration applications.

January 2008, Britain to Fingerprint Visa Applicants

All visitors to Britain requiring visas will have to be fingerprinted starting Monday, January 14, 2008. Immigration Minister Liam Byrne said those applying for a British visa from any of 133 countries would now have their fingerprints checked against a database. Byrne said the system, which the government has gradually been introducing around the world since September 2006, had already captured biometric information from

more than 1 million people. He said the system had flagged nearly 500 cases of identity fraud.

Logging and checking visitors' biometric information is one of the central planks of the government's new immigration strategy, which includes the introduction of an Australian-style points system intended to encourage skilled immigrants, the creation of police-like border force and fines for bosses who do not ensure their employees are legally entitled to work in Britain. Tourists from the United States and the European Union, which do not require visas for short visits to Britain, will not be fingerprinted.

REAL ID Question and Answers

Please click [here](#) to download the government's Q&A concerning the REAL ID final rule. The Department of Homeland Security (DHS) released Questions and Answers regarding the REAL ID final rule establishing minimum security standards for state issued drivers' licenses and identification cards.

Atlanta Airport requires 10 fingerprints

On 1/11/08, DHS announced that it has begun collecting 10 fingerprints from international visitors arriving at Hartsfield-Jackson Atlanta International Airport.

Visa Bulletin for February 2008 - EB-2 for India Unavailable Effective Immediately

Section D of the Department of State February 2008 Visa Bulletin addresses the unavailability of employment-based second preference visas for India, effective immediately.

USCIS Announces that Employers Can Request Info on E-Verify Through NCSC

USCIS announced that as of January 8, 2008, employers and others requesting information on E-Verify may contact the program through the National Customer Service Center (NCSC) by calling the E-Verify program number.

USCIS Extends Suspension on Premium Processing for R-1s

On January 4, 2008, USCIS announced that suspension of premium processing service for religious worker (R-1) visa petitions will be extended until July 8, 2008.

U.S. Passport Cards to be issued February 1, 2008

U.S. citizens may begin applying in advance for the new U.S. Passport Card beginning February 1, 2008, in anticipation of land border travel document requirements. We expect cards will be available and mailed to applicants in spring 2008.

The passport card will facilitate entry and expedite document processing at U.S. land and sea ports-of-entry when arriving from Canada, Mexico, the Caribbean and Bermuda. The card may not be used to travel by air. It will otherwise carry the rights and privileges of the U.S. passport book and will be adjudicated to the exact same standards.

The Department of State is issuing this passport card in response to the needs of border resident communities for a less expensive and more portable alternative to the traditional passport book. The card will have the same validity period as a passport book: 10 years for an adult, five for children 15 and younger. For adults who already have a passport book, they may apply for the card as a passport renewal and pay only \$20. First-time applicants will pay \$45 for adult cards and \$35 for children.

To facilitate the frequent travel of U.S. citizens living in border communities and to meet DHS's operational needs at land borders, the passport card will contain a vicinity-read radio frequency identification (RFID) chip. This chip will link the card to a stored record in secure government databases. There will be no personal information written to the RFID chip itself.

For further information about applying for a U.S. passport card or passport, please [contact](#) the LL.M. Law Group.

USCIS Reminds Employers to Use New Form I-9

After December 26, 2007, employers who fail to use the new Form I-9 may be subject to all applicable penalties. All employers are required to complete a Form I-9 for each new employee hired in the United States.

NOTICE FOR ILLINOIS EMPLOYERS ABOUT E-VERIFY

What is the status of E-Verify in Illinois?

Earlier this year, the State of Illinois passed a new law—Section 12(a) of the Illinois Right to Privacy in the Workplace Act—that would effectively prohibit employers in the state from enrolling in the Department of Homeland Security's E-Verify program. In September of 2007, DHS sued Illinois and asked a court to declare the new law illegal.

The law was scheduled to take effect on January 1, 2008, but the state has agreed to not enforce this law until DHS' lawsuit is over. What does all this mean?

If your business already has enrolled in E-Verify, you may continue to use E-Verify after January 1, 2008 to confirm that your newly-hired employees are authorized to work in the United States. If your business has not yet signed up for E-Verify, you may enroll in the program before or after January 1, 2008 by going to www.dhs.gov/E-Verify and following the link for employer registration. Illinois has agreed that it will not penalize employers simply for participating in the program, at least until the lawsuit is finished.

Are there any state requirements I have to follow before enrolling in or using E-Verify?

Possibly. For example, Illinois did pass other new laws that are not a subject of the DHS lawsuit. Because Illinois only agreed to not enforce Section 12(a), you are encouraged to consult with a lawyer to determine whether any of these other provisions may be applicable to your business and to understand your rights and responsibilities under state law. DHS cannot give legal advice to individual employers.

What should I do if the state says I violated Section 12(a)?

If Illinois state officials attempt to enforce Section 12(a) of the Right to Privacy in the Workplace Act against your business, please **contact DHS immediately** at 1-888-464-4218. This would include any attempt by the state to: (a) prevent your business from enrolling in E-Verify; (b) requiring your business to stop using E-Verify; or (c) bringing or threatening to bring any legal action (including fines) against your business simply for participating in E-Verify. You may also want to contact a lawyer.

What will happen next?

The state legislature is now considering possible changes to the Illinois law. At this time, DHS cannot predict with certainty whether Illinois will, in fact, change its law, what those changes may be, or when the changes may occur. DHS intends to post future developments regarding the Illinois law on the E-Verify website, www.dhs.gov/E-Verify, so employers should check that site on a regular basis for any updates. We remain hopeful that the state will act to preserve the ability of Illinois employers to participate in E-Verify without having to continue with our lawsuit. In the meantime, Illinois employers are able and encouraged to take advantage of the E-Verify program.

USCIS Reaches H-2B Cap For Second Half of Fiscal Year 2008

USCIS announced on January 3, 2008 that the H-2B Cap for the second half of FY2008 has been reached.

USCIS Field Office Adopts Teletch Appointment System for Filing Waiver of Inadmissibility Applications

As of December 17, 2007, immigrant visa applicants seeking to file an application for waiver of inadmissibility (Form I-601) with the USCIS field office in Ciudad Juarez can now use the Teletch Call Center to make an appointment.

Evidence to Enter the U.S. updated

Effective January 31, 2008, U.S., Canadian and Bermudian citizens entering the United States at land or sea ports-of-entry must establish their identity and citizenship to the satisfaction of a U.S. Customs and Border Protection (CBP) Officer. Under current CBP procedures, such individuals may provide any proof of identity and citizenship. While most individuals provide documentary evidence of citizenship, such as a passport or birth certificate, individuals may, depending on the circumstances, be admitted on an oral declaration. Accordingly, CBP is amending its field guidance procedures to instruct CBP officers that citizenship ordinarily may not be established using only an oral declaration.

LL.M. Law Group
53 W. Jackson Boulevard
Suite 409
Chicago, Illinois 60604
www.llmlaw.com

National: (877) 8800-USA (872)
Local: (312) 8800-USA
Fax: (312) 880-0870
Web: www.llmlaw.com
E-mail: immigration@llmlaw.com