

# *The Real ID Act:*

## *REAL Tyranny Against Americans!*

Prepared as a public service by  
the National Veterans Committee  
on Constitutional Affairs (NVCCA)\*  
for the informational use of State  
Legislators in reviewing the overall  
scope and dangerous  
ramifications of implementing the  
Real ID Act of 2005 at the State  
level.

\* Veterans allied under the umbrella of the America  
Freedom to Fascism National Volunteer Network.

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**NOTE: For daily updates on the action in any state, visit:  
<http://www.realnightmare.org/news/105/>**

## **Introduction And An Open Letter to State Legislators**

From the National Veterans Committee on Constitutional Affairs (NVCCA)

This booklet is being printed and distributed free of charge to state legislators who are currently dealing with the realities of the Real ID Act of 2005. States are being asked to comply with this federal legislation, despite overwhelming public opposition.

In this booklet are "Issue Briefs" from a diverse collection of authors, representing an even more diverse cross-section of the American Body Politic.

As men who have previously taken up arms to defend our nation's interests, we, the National Veterans Committee on Constitutional Affairs (NVCCA), hereby appeal to your own oaths of office, as legislators, to defend the Constitutional rights of ALL Americans, whether those enemies to freedom be foreign, or domestic. We feel that the Real ID Act presents a greater *domestic* threat to the rights of our people than any single piece of federal legislation proposed, perhaps in this entire past century.

When you review the Issue Briefs and comments of the authors herein on individual topics surrounding the Real ID Act, take into special account the true diversity of this picture. Rare indeed is it when groups with such wildly differing viewpoints come together to oppose a piece of legislation. When one sees radically different political perspectives agreeing as touching a particular subject, then you cannot but marvel at the situation presented in the Real ID Act. It is nearly beyond belief that fundamentalist, Protestant theologians would stand side by side with both Jesuit (Roman Catholic) and Jewish organizations in opposition to a single piece of legislation. Yet that is the scenario that is unfolding before us in this battlefield.

The NVCCA was established to be a bridge between these diverse viewpoints. \* With permission from the American Civil Liberties Union, we have set out, in our committee format, to assist state legislators who are also opposed to the Real ID Act on "matters of conscience" or for other reasons.

\*From the ACLU:

Please feel free to use our materials. We would ask that when you reproduce them you either do so in full or by including enough of the text that the quotation's full meaning is clear. Thank you. Christopher Calabrese  
Counsel, Technology & Liberty Project American Civil Liberties Union  
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We offer our services in several areas to help YOU stand strong against the arm-twisting and coercion of the Federal Government. We have drafted a model resolution (included herein) for introduction in any state legislature. We will help coordinate the testimony of diverse viewpoints when the resolution makes it to the committee level for hearings. (This, of all things, to help keep the peace between normally adversarial organizations.) We can also assist in other ways, on request. There is a pastor (non-denominational) and lobbyist working with our team. These can help draft "dear colleague" letters for sponsors of Anti-Real ID Resolutions to help elicit

others in the legislature to co-sponsor with you, to lead a "prayer group" within the legislators on the subject, or etc.

Our primary goal is to uplift and encourage legislators to stand strong in this battle. The people of your state overwhelmingly oppose such strictures on their liberty as the Real ID Act imposes on them.

We agree with the American Civil Liberties Union that Real ID is a REAL NIGHTMARE! It is REAL Tyranny. It is a REAL disaster waiting to happen. It will be REAL Expensive as well as REAL Taxing on your Motor Vehicle Administration staff.

Furthermore, it is a REAL good way to be defeated in your next election if you cave in and support the implementation of REAL ID in defiance of the religious beliefs and the will of your people.

Thank you for carefully reading this document, and all its components; and may our Creator richly bless those who stand strong in this fight.

Yours in Liberty,

*Lt. Col. Stan Jones, USAF Ret.*

National Coordinator, NVCCA

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In all cases, the original works of the authors were available freely on the World Wide Web (Internet), AND the source/location of the writings are clearly published herein along with the work.

This document is merely an assembly of some of those collective works, to provide state legislators with a single source document that will help them understand the complex legal and civil rights issues involved in the implementation of the Real ID Act.

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There is no commercial use or profit involved in the distribution of this material, being made freely available to state legislators and other interested parties in two formats: print, and a PDF (printable) electronic file, which is likewise downloadable from the NVCCA website.

There is no intention within the NVCCA to adversely effect the potential market for or value of any of these copyrighted works. To the contrary, by making these works available in these formats, we acknowledge and esteem those who have done the research on the subjects surrounding the implementation of the Real ID Act, and herein direct legislators and others back to the source for more information, if needed.

The inclusion of the model resolution in this packet is not to be taken or construed that the organizations listed herein, and/or the authors of writings assembled herein, endorse that proposal. Rather, that model is a collaborative effort of people who together collected the sum-total of reasons for opposition to Real ID, and assembled them into a single resolution that could potentially be used to block the implementation of the Real ID Act at the individual state level. Nothing suggests or implies that it is "ready" as presented for any state, and legislators should have the bill drafting staff of your state review it for legal form and sufficiency.

## Opponents of Real ID: A Partial List

The following organizations, either via official position papers or commentary, express at least some sense of objection to the implementation of the Real ID Act of 2005. As such, legislators can see that this opposition is a broad spectrum of the American people, and contains groups from both the “left” and “right” of political thought, as well as crossing partisan boundaries. When such a diverse collection of people stand united for or against any subject, it is a sure bet that the constituents in any given legislative district likewise hold strong and similar views. The Real ID Act is opposed by the vast majority of Americans. Even doing a web search for “Real ID Act” shows that for every supportive article there are nearly 500 opposed.

American Bar Association	Jews for Racial and Economic Justice, New York
American Civil Liberties Union	John Birch Society
American Conservative Union	Leadership Conference on Civil Rights
America: Freedom to Fascism	League of the South
American Friends Service Committee	Lutheran Social Ministries of NJ
American Jewish Committee, National	Liberty Coalition
American Policy Center	Mennonite Central Committee, Pennsylvania
Ancient Order of Hibernians	Mexican American Legal Defense and Educational Fund
Bill of Rights Defense Committee	National Association of Latino Appointed and Elected Officials
Catholic Charities, Hawaii	National Center on Domestic and Sexual Violence
Catholic Charities, West Virginia	National Coalition Against Domestic Violence
Catholic Charities Immigration Clinic, Mississippi	National Law Center on Homelessness & Poverty
Catholic Conference of Kentucky	National Organization for Women
Catholic Immigration Network, Massachusetts	National Taxpayers Union
Catholic Legal Immigration Services, Washington DC	Navaho United Methodist Center, New Mexico
Catholic Social Services, Alaska	Our Lady of Victory and Sacred Heart Churches, California
Center for American Progress	People For the American Way
Center for National Security Studies	Presbyterian Church (USA), Washington DC
Citizens Against Government Waste	Privacy Rights Clearinghouse
Competitive Enterprise Institute	Religious Action Center of Reform Judaism, National
Consumer Action	September 11 Families for Peaceful Tomorrows
Electronic Frontier Foundation	Sikh Coalition, NY
First Presbyterian Church, North Carolina	Southern Poverty Law Center
Florida Catholic Conference	Union for Reform Judaism, National
Gun Owners of America	United Methodist Children’s Home, Alabama
Interfaith Refugee and Immigration Ministries Illinois	U.S. Bill of Rights Foundation
Jesuit Refugee Service	U.S. Committee for Refugees and Immigrants
Jewish Community Action, Minnesota	Washington Association of Churches, Washington
Jewish Labor Committee, National	
Jews for the Preservation of Firearms Ownership, Inc. (JPFO)	

# Model State Resolution to Decline Participation in Real ID

Prepared by Steven Yates, Ph.D. and Aaron Bolinger  
(With input from others, whose contributions are appreciated.)

STATE OF \_\_\_\_\_  
INTRODUCED BY:

## A RESOLUTION DECLINING TO IMPLEMENT THE REAL ID ACT OF 2005 AND OPPOSING THE CREATION OF A FEDERAL NATIONAL IDENTIFICATION CARD IN \_\_\_\_\_

**Whereas**, the state of \_\_\_\_\_ recognizes the Constitution of the United States of America as our most fundamental charter of Liberty and the Bill of Rights as affirming the fundamental and inalienable rights of Americans, including freedom from unreasonable searches and seizures and freedom of privacy; and

**Whereas**, that said Constitution of the United States grants to the federal government the ability to make only seven mandates upon these States of the Union, and that these may be found at Article I § 8 (apportioned number of troops for military needs), Article I § 9 (an apportioned quota of money to balance the budget in times of deficit), Article VI (an oath of office to support the Constitution), Article IV § 1 (full faith and credit for the laws of other states), Article IV § 2 (extradition of fugitives), Article IV § 4 (republican form of government), and that all qualifying citizens have the right to vote (15th, 19th & 24th Amendments), and the demands such as are contained in the federal REAL ID ACT OF 2005 (Division B of Public Law 109-13 signed by President George W. Bush on May 11, 2005) are not to be found among these limited mandates; and

**Whereas**, the people of the states, having delegated to Congress by means of the Constitution for the United States, a power to punish treason, counterfeiting the securities and current coin of the United States, piracies, and felonies committed on the high seas, and offences against the law of nations, and no other crimes whatsoever; and it being true as a general principle, and by one of the amendments to the Constitution having also declared, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," that the act of Congress, passed on the 10th day of February, 2005, and which instituted "The Real I.D. Act of 2005" is altogether void, and of no force; and

**Whereas**, it is unconscionable for this State to submit to any act of Congress which exceeds the limited grants of power contained in said Constitution, and even more particularly so when such Act would infringe upon the protected rights of this State and her people; and

**Whereas**, the Real ID act, by purporting to create a national system of identification that connects banking, commerce, federal services, and many other necessities of life to the demand for this form of identification is viewed by numerous Americans of diverse Christian faiths as being diametrically opposed to their beliefs in scripture and their doctrines, there exists the very real possibility for massive civil and religious rebellion, both openly and in secret, to the demand of the federal government for compliance to this Act; and

**Whereas**, no Act of Congress should infringe upon the rights of conscience for our pious and faithful citizens; and

**Whereas**, the state of \_\_\_\_\_ denounces terrorism in all its forms and condemns all acts of terrorism by any entity, foreign or domestic, wherever the acts of terrorism occur; and

**Whereas**, any security measures designed to protect U.S. citizens from acts of terrorism shall be designed to enhance the safety of said citizens without infringing upon Constitutionally protected rights and liberties of U.S. citizens and without being enacted outside the limited grants of powers on such legislative bodies; and

**Whereas**, said REAL ID ACT purports to create a federal national identification card by mandating federal standards, to be approved by the federal Department of Homeland Security, for state driver's licenses and other identification cards and requiring states to share their motor vehicle databases, with no Constitutional authority existing for the Federal Government to do the same ; and

**Whereas**, the REAL ID ACT purports to mandate the documents that states must require to issue or renew state driver's licenses and purports to require states to place uniform information on every driver's licenses in a standard, machine-readable format; and

**Whereas**, the REAL ID ACT prohibits federal agencies, federally regulated commercial airlines, and federally regulated private banks from accepting a driver's license or other identification card issued by a state that is not in full compliance with the ACT; and

**Whereas**, the REAL ID ACT would, if implemented by the State of \_\_\_\_\_, prove a very costly long-term endeavor at the expense of the people of our good State, and their own liberties; and

**Whereas**, the REAL ID ACT purports to require the creation of a massive public sector database containing information on every U.S. citizen that is accessible to all motor vehicle employees and law enforcement officers nationwide, and that can be used to gather and manage information on U.S. citizens; and that this is not the Constitutionally sanctioned business or responsibility of government at federal or state levels; and

**Whereas**, the REAL ID ACT enables the creation of additional massive private sector databases, combining both transactional information and driver's license information gained from scanning the machine-readable information contained on every driver's license converted to a REAL ID; and

**Whereas**, these public and private databases are likely to contain numerous errors and accidental false information, creating significant hardship for Americans attempting to verify their identities in order to renew their driver's licenses, board commercial airplanes, open accounts with federally regulated private banks, or perform any of the other numerous functions required to live a normal life in these United States today; and

**Whereas**, the Federal Trade Commission has estimated that approximately ten million (10,000,000) U.S. citizens are victims of identity theft annually, and because identity thieves are increasingly targeting motor vehicle departments, the REAL ID ACT will enable the crime of identity theft by making the personal information of all U.S. citizens, including signature, social security numbers, and date of birth, accessible from tens of thousands of locations; and

**Whereas**, the REAL ID ACT requires a driver's license to contain a person's physical home address and makes no exception for individuals without one, or those in potential danger, including police officers, judges (including federal judges), undercover law enforcement personnel; and including victims of stalking or other forms of criminal harassment; and

**Whereas**, the REAL ID ACT contains onerous record verification and retention provisions that place unreasonable burdens both on motor vehicle division personnel and on third parties required to locate and verify records; and

**Whereas**, the REAL ID ACT will place enormous burdens on law-abiding citizens of the State of \_\_\_\_\_ seeking new (or renewal of) driver's licenses including increased document requests and waiting periods, higher costs, longer lines, return trips, etc.; and

**Whereas**, the REAL ID ACT will place state motor vehicle staff on the front lines of immigration enforcement by forcing state employees to determine federal citizenship and immigration status, excessively burdening both foreign-born applicants and motor vehicle staff;

**Whereas**, the REAL ID ACT passed as Division B of the larger Appropriations bill without sufficient deliberation on the floors of the federal Senate and House of Representatives, and did not receive a hearing by any Congressional committee or a vote solely on its own merits by both Houses of Congress; and was passed despite opposition from more than six hundred organizations; and

**Whereas**, the REAL ID ACT eliminates a process of negotiated rulemaking initiated under the Intelligence Reform and Terrorism Prevention Act of 2004, which had convened federal, state, and local policymakers, privacy advocates and industry experts to solve the problem of misuse of identity documents; and

**Whereas**, the REAL ID ACT provides no new security benefits in the proposed form of identification. Moreover, because individual state identification measures comprise 50 distinct types of identification, this new proposal diminishes to a single type, while simultaneously increasing the amount of personal information contained within it, leaving it even more vulnerable to insider fraud, identification theft, counterfeit documentation, and database failure; and

**Whereas**, the Federal government has intimated the potential loss of funding to any state refusing to comply with the Real ID Act, the General Assembly of the State of \_\_\_\_\_ hereby serves notice that it will consider such threats as indicative of the Federal Government's general disregard for the liberties of the people of our State, and the open rebellion of the Federal Government against the Constitution generally; and

**Whereas**, it has been also intimated that the governments of Mexico and Canada would be granted access to the databases created as a result of the partnerships of our respective national governments under international treaties, thereby placing the personal information of our citizens at even greater risk of fraud, theft or for other unauthorized and potentially deleterious uses.

**THEREFORE, BE IT NOW RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF** South Carolina that it support the Federal Government of the United States of America in its campaign against terrorists, and specifically to apprehend and bring to justice any persons, foreign or domestic, who were involved in the destructive acts which occurred on September 11, 2001, yet while affirming the commitment of the same not to wage this campaign at the expense of essential Constitutional rights and liberties of law-abiding U.S. citizens; and

**BE IT FURTHER RESOLVED** that it is the policy of the State of South Carolina to decline to implement the REAL ID ACT as such legislation exceeds the Constitutionally limited power of the Congress to place mandates upon this and our sister States; as well it violates the rights and liberties enumerated under and protected under the Constitutions of the United States of America or the State of South Carolina, as well it specifically attacks at matters of conscience held by those who have and hold to Biblical models of faith; and

**BE IT FURTHER RESOLVED** that it is the position of the State of South Carolina that the REAL ID ACT was, in fact, an action in excess of the limited authority granted to the Congress by the said Constitution to legislate; therefore, said ACT is ultra vires and altogether void, and of no force; and that the power to enact any legislation pertaining to a Federal Identification system can, in no wise, be enacted by the Congress Assembled unless an Amendment to the federal Constitution be passed by the States and the people to authorize it; and

**BE IT FURTHER RESOLVED** that it is the policy of the State of South Carolina that no ultra vires Acts of Congress shall be enforced or implemented within this State; and

**BE IT FURTHER RESOLVED**, therefore, that the South Carolina General Assembly neither enact legislation nor authorize any appropriations from any source, state or federal, to further the implementation of the REAL ID ACT in South Carolina; and

**BE IT FURTHER RESOLVED** that the South Carolina General Assembly urges support for any federal measure that once enacted repeals the REAL ID ACT; and

**BE IT FURTHER RESOLVED** that the State of South Carolina stands with our Sister States of Maine, Montana, Idaho, Washington, Arkansas and Colorado where state legislation declining to implement the REAL ID ACT or participate in a federal national identification system has recently been enacted; and that the State of South Carolina calls upon our many Sister States to pass similar measures declining to implement the Real ID ACT or delaying the implementation of the REAL ID ACT; and

**BE IT FURTHER RESOLVED** that copies of this Resolution be transmitted to President George W. Bush, United States Attorney General Alberto Gonzales, Governor Marshall Sanford, Senators James Demint and Lindsey Graham, and Representatives Henry Brown, Joe Wilson, J. Gresham Barrett, Robert Inglis, John Spratt, Jr., and James Clyburn.



## State Net: States Revolt Against the Federal Real ID Act

<http://www.prweb.com/releases/2007/2/prweb507859.htm>

States' anger over the federal Real ID Act -- the mandate for states to adopt by 2008 uniform, tamper-proof driver's licenses and ID cards as a hedge against terrorism -- has been on a low simmer ever since Congress passed the provision in 2005. Now, 22 states are poised to defy the federal requirements," says Rich Ehsen, editor of State Net Capitol Journal.

Sacramento, CA (PRWEB) February 27, 2007 -- According to State Net, lawmakers in 22 states aim to defy national driver's license requirements.

"States' anger over the federal Real ID Act -- the mandate for states to adopt by 2008 uniform, tamper-proof driver's licenses and ID cards as a hedge against terrorism -- has been on a low simmer ever since Congress passed the provision in 2005. But that simmer has turned to a full boil, with numerous statehouses rolling out bills this year to reject the law over concerns about how much it will cost, who will pay for it and whether it will actually make the country even less secure than under the current system," according to Rich Ehsen, editor of State Net Capitol Journal.

To date, at least 22 states have filed bills opposing Real ID starting with a non-binding resolution approved last month by the Maine Legislature, a measure meant more to catch Congress's attention than to declare an actual intent not to comply with the federal statute. That is definitely not the case in Montana, however, where the House this month approved a pair of bills (HB 384 and HB 287) that direct the state to disregard Real ID.

Variations of these proposals - some binding, some not - have also advanced in a handful of other states, including Vermont, Wyoming, Washington and New Mexico. That number could grow significantly, according to Missouri Rep. Jim Guest (R), who is working with lawmakers across the country to form a coalition opposing the Real ID Act. Guest believes as many as 35 states will ultimately introduce similar bills, a number he feels would give the movement real power to resist the federal law. "We are hopeful that if we get enough states that say they will opt out, Congress will have to take a more realistic look at it," Guest says.

Chief among state concerns is the projected cost to implement such a system and the potential for privacy violations.

Currently, 41 states and Congress are in regular legislative session.

### About State Net

State Net ([www.statenet.com](http://www.statenet.com)) has helped organizations track legislative and regulatory developments for more than 30 years. Headquartered in Sacramento, CA, State Net monitors every bill in the 50 states, District of Columbia and Congress along with all state agency regulations. The company delivers online services, issue-based consultation and analysis that enables the nation's leading organizations to effectively respond to opportunities and risks in the states.

State Net Capitol Journal delivers coverage of issues, decisions, scandals and politics from all 50 states. Featuring analysis of emerging trends, state budgets, governors, legislatures and elections, Capitol Journal readers gain an intelligent overview of the states and issues each week.

### References:

Ehsen, R. (2007, February 19). High Noon for Real ID? State Net Capitol Journal.

# **ISSUE BRIEF**

## **The Real ID Act: Practical, Constitutional, & Biblical Perspectives**

Disciple Aaron, South Carolina

Disciple Aaron is a bible scholar & translator, lecturer, pastor-teacher, the author of 7 books, and a former registered lobbyist, constitutional law researcher & para-legal. His interest in the Real ID Act is purely based on scripture, and what follows is his analysis of Real ID from the theological standpoint. Aaron has been active with a number of national interests that are working to block the implementation of this Act at the state level, and is a co-author of the model resolution contained at the front of this book. For more information, or to include him as a witness for legislative committee testimony, he may be reached at [discipleaaron@hotmail.com](mailto:discipleaaron@hotmail.com)

### **Prefatory Note:**

As one of the primary authors of the model resolution contained in this NVCCA packet, the following Issue Brief is one that should be read and understood by legislators reviewing the implementation (or hopefully making the decision to reject implementation) of the Real ID Act of 2005.

### **Part One**

#### **Top 10 Reasons to REJECT implementation of the Real ID Act of 2005**

10. It will cost the states (i.e. the taxpayers) too much money!

The “controlled debate” of Real ID has largely been the cost of implementation. The National Governor’s Association, the National Conference of State Legislators, and the National Association of Motor Vehicle Administrators have all pitched into the public debate about how expensive it will be to comply with this “unfunded federal mandate.” (ED NOTE: Excerpts of their discoveries are included in this booklet.) Most such groups are demanding that the federal government provide the funding. Of course, this approach ignores all the OTHER critical rationale against Real ID. And while this is a REAL problem at a certain level, the NVCCA thinks this reason ranks as only #10 – the worst real reason to reject Real ID.

9. Technology profiteering!

As discussed by the Electronic Frontier Foundation and other groups concerned with the technology aspects of implementing Real ID, the creation of a massive public sector data base, sophisticated computer systems for implanting tomes of information onto identification cards, and numerous other aspects of the practical implementation of Real ID, will only be possible by a select few technology firms. This guarantees enormous profits to those principal corporations, at the expense of the taxpayers and citizens of this nation. (ED NOTE: EFF information is included in this booklet.) And while this is also a huge concern to those who ultimately must bear the cost of implementing Real ID (the general public), this is still only important enough to rank #9 on the overall list of reasons for our States to stand together in Rejecting Real ID.

8. Immigration Control!

Many of the groups touting Real ID as the “silver bullet” to end illegal immigration are ignoring the obvious REAL answers to that problem. The fact is that our national and international leaders are committed to conducting “wars for oil” on foreign soil – while our borders go unpatrolled. Funds could be appropriated for southern border fencing. Local police, national guard units, and even constitutional state militia could be employed for border detail. Minutemen corps can be created. States can round up the illegals within their own boundaries and bus them to the local Federal Court for processing by trained prosecutors. Better yet, Congress could just do its CONSTITUTIONAL OBLIGATION and enforce the “uniform law of naturalization” (which we already have) at the entry points to our nation. If Congress is going to ignore one of its enumerated powers, why should the states comply with an “unauthorized mandate” that will do nothing but invade the privacy of every legitimate American citizen?

7. Security!

Proponents of Real ID would have us to believe that this new form of identification would be “more secure” than those that currently exist. This is a preposterous notion, because as experts have warned, creating a *single* identification standard would actually increase the likelihood of identity and even asset theft. Currently, each of our 50 states has its own driver’s licenses and identification creation standards. It is

MUCH more difficult to accurately duplicate such diverse forms of identification than it would be to duplicate only a single one across America. Furthermore, with the plethora of information that will be required on these new proposed identification cards, when one of those are stolen, personal financial, medical and other information will be at extreme risk. This is a major concern of women's groups, and the public generally. Real ID cannot protect against identity theft. In fact, it actually *increases* the amount of information at risk if stolen, or if an ID card would be lost or otherwise fell into the wrong hands.

6. SSN Connection to Identification is a Violation of Federal Law!

In point of fact, the Real ID act seeks to compel the connection of an individual's Social Security Number to this identification card. According to the Social Security Administration, there is not even a federal law which requires an individual to HAVE that number! *"The Social Security Act does not require an individual to have a Social Security Number (SSN) to live and work within the United States, nor does it require an SSN simply for the purpose of having one ..."* When it was created, the Social Security Act established a system whereby those who wanted a public "old age survivor's insurance" could join that federal program. The purpose of the number is solely to "obtain or retain" this "federal benefit." The public was also told, and existing federal law confirms, that it is a criminal act to use this number for identification purposes. The very card itself says on its face " For Social Security and Tax Purposes – Not For Identification." Therefore, the very notion of states compelling citizens to put this number onto their driver's licenses and other documentation could subject state Motor Vehicle Administrations to lawsuits under the Privacy Act and related civil rights statutes. Social Security has always been 100% VOLUNTARY!

5. Religious Objections!

Many of various religious faiths have rejected participating in Social Security and other "numbering" schemes because of scriptural objections. They have opted out of this "insurance" program for fear that number would one day be connected to evil. Those who have opted out now see persecution coming for their stand. Each progressive year has proven these prophets correct in their suppositions. The potential connection to the "mark" or "number" of a "beast" (kingdom) according to the Prophets Daniel and John are uncanny. Religious objections to Real ID are flying in fast and furious, and include such normally diverging theological viewpoints and faiths as Jewish, Catholic, Mennonite, Messianic, Methodist, Baptist, Presbyterian, and more! RARE is it when these diverse faiths agree as touching any individual political subject. Real ID has polarized all biblical faiths against the federal government.

4. Protection from Terrorism!

On its face, the disaster which occurred on 9-11-01 calls for Americans to be additionally protected from acts of Terror. Yet once we investigate beneath the surface of the 911 Commission's Report, all the general public can find are more and more lies and deceptions about what really happened. A recent CNN poll indicates that an overwhelming 82% of Americans believe their own National government had a hand in the events of that fateful day, and are demanding independent investigations to ascertain what roll, if any, the government had in permitting, covering up, and/or participating in those events. While every red-blooded American believes our government should take positive steps to prevent such things from occurring in the future, Real ID is NOT the answer. We want to see justice served on whomever it was (be they foreign OR DOMESTIC) that permitted, encouraged, or participated in the deaths of thousands of our brothers and sisters who were in the twin towers on that day, along with the servicemen and rescue personnel that continue suffering health consequences from being near the toxic results. To date, there has been not a single government official in the Department of Defense (who could have prevented it) or in the Federal Aviation Administration, held accountable for their failures on that morning. Criminal prosecutions, investigations of our federal leadership, and related acts are warranted. Confiscating the liberties of our own law-abiding citizens is not.

3. Congress is Exceeding Their "Mandate" Abilities!

ONLY the Constitution for the United States of America is the source that defines and describes the powers of Congress to make mandates upon the states. When searching that document to discover if any power exists to compel the states into a "uniform" method of personal identification for its citizens, no such power can be found. In fact, there are only seven things which Congress can compel of a state – regardless of whether or not they provide the money to the states to implement the mandate. These are found at Article I § 8 (apportioned number of troops for military needs), Article I § 9 (an apportioned quota of money to balance the budget in times of deficit), Article IV (an oath of office to support the Constitution), Article IV § 1 (full faith and credit for the laws of other states), Article IV § 2 (extradition of fugitives), Article IV § 4 (republican form of government), and that all qualifying citizens have the right to vote (15th, 19th & 24th Amendments). Indeed if Congress had the power to make this "mandate" on the states, then the

states would be obligated to find the money to do so – just as they provide all the funding needed independent of Congress to implement voting rights, fugitive extradition, etc.

## 2. Congress is Exceeding their “Legislative” Abilities!

As with Item #3 above, Real ID also exceeds the duly constitutional legislative powers of the Congress Assembled. In no uncertain terms, the States attacked Congress only 2 years after the Constitution was ratified, when they attempted to legislate on the “Alien & Sedition” subject matter. The famous “Kentucky” and “Virginia” Resolutions addressed the excess of Congress, and the state’s prevailed in clearly defining what subjects, and only those subjects, that the Constitution authorized Congress to pass laws about. The Constitution gives Congress the power to legislate only in the following areas: a power to punish treason, counterfeiting the securities and current coin of the United States, piracies, and felonies committed on the high seas, and offences against the law of nations. Furthermore, within the 9<sup>th</sup> and 10<sup>th</sup> Amendments (Bill of Rights) it is declared that “the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

### **And the #1 Reason why the states should REJECT Real ID is therefore!**

#### 1. Real ID is Void on its face!

Because Congress has exceeded its lawful authority in attempting to place a mandate upon the states which it has no constitutional authority to mandate, and because it has passed a law without the constitutional power or authority to do so, the Real ID Act, on its very face, is entirely VOID and of no effect. The Supreme Court has ruled that:

*“The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void, and ineffective for any purpose; since unconstitutionality dates from the time of its enactment, and not merely from the date of the decision so branding it. An unconstitutional law, in legal contemplation, is as inoperative as if it had never passed. Such a statute leaves the question that it purports to settle just as it would be had the statute not been enacted.*

*Since an unconstitutional law is void, the general principles follow that it imposes no duties, confers no rights, creates no office, bestows no power or authority on anyone, affords no protection, and justifies no acts performed under it...*

*A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to supersede any existing valid law. Indeed, insofar as a statute runs counter to the fundamental law of the land, it is superseded thereby.*

*No one is bound to obey an unconstitutional law and no courts are bound to enforce it.”*

16th American Jurisprudence 2d Session 177 late 2<sup>nd</sup>, Section 256

## **Part Two: Biblical Perspectives**

### 2.1 Introduction

The purpose of this article is to introduce state legislators and other interested parties to the moral, scriptural, and “matters of conscience” issues surrounding the Real ID Act. It is not an attempt to “convert” anyone to biblical thinking, nor will it delve into the myriad sermons that have been written about such things as marks of beasts, and etc. We will, however, examine certain key scriptural passages, with an eye on how those passages are being understood or interpreted by those who follow a biblical context for their lives; and how they perceive the Real ID Act to be either a compromise of their faith, or diametrically opposed to it. The writer is indeed a believer in a single Creator, in His Son (herein “Messiah”), and the Holy Spirit. As such, this writing may be both passionate and biased toward those views, however it is beyond obvious that much of the opposition to the Real ID Act is coming from professed believers, and therefore it is meet that those in the American body politic be aware of both the rational principles held by these believers, and the level of passion they will encounter surrounding this subject.

The time is long past where those of lesser “organized” sects and bible-believing factions can be ignored as though they do not exist. In fact, a nation such as America has so long held fast to variant belief modes that the mingling together of these beliefs across communities and states has brought many of formerly divergent views together. It is now, therefore, no less than folly to try to either ignore, or “wish away” the similarities. Put another way, in a bygone era, many who held to a pacifist general mode may have been a “separatist” in the broadest sense of the term. But it is now true that more

militant faiths have mingled among the separatist movement, producing potentially explosive results when these people believe they are being backed into a corner that conflicts with their understanding of scripture. This is true among even non-Christian elements within America, such as the ever-growing congregations of Islam and other far and middle Eastern religions. We will, however, only deal with the larger biblical-based Protestant faiths.

America has always been a melting pot for Protestant denominations. This is true because it was indeed the “state sponsored churches” in Europe who persecuted those of divergent (Protestant) faiths, and forced them to flee for their very lives. They landed in America, bringing their “protector” mind-sets with them. Be it Baptist, Presbyterian, Lutheran, or otherwise, there is a general sentiment among a very large number of Americans that obedience to either “scripture alone” (a sola scriptura approach), the teachings of their “church fathers” (be it denominational leadership, or the Apostles of the New Testament), or some combination of the twain, is required in their faith. And though the interpretation of such biblical books as Daniel, Revelation, and the teachings of the Christian Messiah among the 4 Gospels of the New Testament is subject to diverse and wild variations among the denominations, sects and even at the individual level, nearly all of the “Protestant” faith models are in agreement that:

1. We are currently living in what might be described as either “the end times,” or that our generation is very nearly approaching that era of world history; and
2. That a future “judgement day” will come on all souls, at a time when we know not, and that our actions in this world will be judged on that day; and
3. That “salvation” or the entry into everlasting life with the Creator is, in no small part, to be determined by our actions and interactions with one another in society generally, and even how much persecution we are willing to endure for our faith.

With those things in mind, we will now look at the Real ID Act when mixed with religion – an angle that cannot be ignored by those in law and policy-making positions within government. We shall dispense with the line-item components of the bill generally, leaving that to other authors for their commentary and critique. Here we will address the general scope of how the practical aspects thereof are destined to clash head-on with the practical aspects of obedience to scripture and/or one’s faith model, particularly from the Protestant view.

## 2.2 Separatists

Denominations and individual believers take diverse interpretive views of a number of biblical passages that deal with “separation from the world.” Indeed, one of the tenets of Protestant faiths generally is for each person to “work out their salvation with fear and trembling.” In this aspect, no congregational leader can ever “have a handle” entirely on his respective flock. Many believers will digress from the “majority view” on many individual issues, yet agree to the common ground simply to prevent dissenting and strife generally in the congregation.

For example, on one hand, those of “Old-Line” Amish and like faith models take a very (denominationally) strict view of the passages that relate to the notion of separatism, where others even of like denominational characteristics are totally opposite on that single concept. Such scriptures as Romans Chap. 12-13, and 2 Corinthians 6:17, and the like, may be taken to mean a total separation from the world and its trappings by one sect, and a more cooperative-with-society view will be held by others. Individuals who hold to those stricter standards often do not even have a bank account, as doing so could be seen to violate Proverbs 1:10-16 and similar teachings against having a “common purse” with the unrighteous. There are a number of groups of people taking this “hard line” approach, and not at all strictly within the “anabaptist” (Amish-Mennonite) communities. These may reject such things as electricity, driver’s licenses, and other “things of this world” that appear, in their eyes, to violate some tenet of canon and their faith model. Legislators cannot therefore think to create any “exemptions” that favor a “member” of one denomination or sect over another. Any individual, regardless of their “flock,” may hold to components of these separatist views, and such matters of conscience are beyond any government’s purview.

Also, many of these same people view such “systems” as our current “welfare,” “old age insurance” and related programs as deliberate attempts by Satan to trick them out of their inheritance from the Creator. Teachings of scripture pertaining to the believers providing for their individual flocks, meeting the needs of the elderly, etc. all tend to push them away from the Social Security Number, and all the things that are today connected to it. Many people have rebuked their participation in and use of that system and number, for just that reason. Quite a few are not now, nor were they ever, “Old Line

Amish.” And while many believers are not at the level of “faith in their brethren believers” required to personally take such a stand, that does not negate the reality for those who have.

In a nation where diverse biblical faiths have melted into society together, and a government was formed that would protect everyone alike in their personal matters of conscience, it is inconceivable that any proposals would be drafted or implemented in America that failed to recognize these realities. Indeed, it is totally unconscionable that a person, on account of their faith, would be denied any access to the services that government provides and regulates on behalf of the entire population of our nation. From a practical standpoint then, the Real ID Act seems to clearly violate the rights of at least a portion of believers who could be denied access to a plethora of social necessities on account of their faith.

For example, the Real ID Act purports to deny access to any “federal” building for a person not having a “proper” form of identification (as defined in that Act). Would then a person accused of a federal crime be unable to enter the federal court house to defend himself in an action against him? Could a person be tried in absentia under this law? It would appear that both are the case.

Additionally, no person without this form of identification would have access to a federal court to bring any action – be it a petition to the government for a redress of grievances, or otherwise.

It is also conceivable that a person without a “proper” form of identification could be denied access to medical care as well, as governments regulate a large component of hospitals and medical service providers.

Banking institutions are also considered one of the facilities that would be off limits to a person without this form of identification. Presuming one does not even have a bank account (as many separatists live), often it is that they are paid by their employer or for contractual services in “check” form. By taking a check to the bank on which it is drawn, the payee is (currently) able to receive their due, without having any account with that institution. Under this Act, a bank could summarily refuse to pay the bearer of such commercial paper, leaving the laborer unable to be paid for work already performed.

Dozens of other examples could be brought to bear to demonstrate how the practical application of the Real ID Act will detrimentally impact those of certain faith models. Many of these believers belong to groups who are generally the most peaceable and meek of the total number of believers. Going about in humble silence, obedient to their Creator, and using whatever yardstick of interpretation would cause them to believe thus, these people will bear a disproportionate burden of suffering under the Real ID Act.

The question should never be asked of their willingness to suffer, or even for government to question in their faces the accuracy of interpretation in their mode of worship and beliefs. Rather the question should be, why should ANY peaceful believer in El Shaddai (God Almighty) be compelled, in America or any of her states, to suffer at all on account of a law that purports to address itself toward illegal immigrants and/or terrorists? Have Amish, Mennonite, and other even non-denominational separatist Christians suddenly become terrorists? By the manner and mode of implementation of the Real ID Act, one could easily make such a presumption.

Let us now consider another component of employment – the “day job.” Broadly defined as “daily work for daily pay,” it is the mode of labor preferred by any number of people. For the believer, the desire for obedience is based on the scriptures found at Lev. 19:13 (“the wages of him that is hired shall not abide with thee all night until the morning”) and Deu. 24:14-15 “thou shalt not oppress a hired servant ... at his day thou shalt give his hire, neither shall the sun go down upon it ...” In these passages the Creator is telling both boss and servant that daily work for daily pay is the biblical mandate. In that manner, a poor person will have always something on which to feed himself and family.

Believe it or not, there are any number of bona-fide United States citizens who insist on working under this formula, and in the types of work that persons of “upper crust” mind-sets would only associate with “illegal immigrants.” This would include itinerant agricultural, “day jobs” in construction, etc., in addition to genuinely “homeless” people and even “panhandlers” or street musicians. The Real ID Act fails to consider those realities. Should a street musician be treated as a terrorist?

Furthermore, those with “no fixed address” would not be able to obtain “proper” identification. Among these classes of people are very devout believers. Indeed, those who follow the model of belief established in the book of Acts have forsaken homes, families and more in their missionary work. To be “transient” is now a crime? The number of homeless veterans of war should make any thinking legislator balk at the realities of Real ID. Should those who have served our nation, yet now are homeless, be denied state driving permits, or other services for themselves? Many ministers of the gospel are also quite transient, and perform menial, servant-styled work, share cropping, and related tasks simply for bread on a daily basis. Are they to be treated as terrorists, denied identification, or subjected to prosecutorial and tribulatory reproaches simply because they have no “fixed address” for extended periods of time? It appears by the practical impact of “Real ID” that being a “transient” is now converted into a crime. Some might say that *any* faith above “lip service” level is now against public policy.

Let it now also be said that the most pious, devout and peaceful people are not merely “believers” as many understand the term. There are quite a few people who “believe” yet never put their beliefs into motion in their lives. Others, however, strive to walk a daily walk in the footsteps of their Messiah, to the end of a greater knowledge of and closeness to the Creator of all. And even if one is a “believer” and has read much of scripture, there are many who, through different interpretations, and perhaps stronger devotion to what they glean from the Word, will have and hold stronger ties to it. This may manifest in many ways. Yet it is not for government to either attempt to discern the consciences of our people, nor really is that conscience any of government’s business, except to protect every citizen equally, using the bills of rights of our Constitutions as the foundation.

Those who are more than just “hearers” of the Word often believe, even if secretly, that the “lip service” believers are apostates, or fakes. Some would say Satan himself is a believer, and that therefore those who are not as in-tune with scripture as they are in no position to lord any authority whatsoever over their actions. So though many who read this might call themselves “believers” in the general sense, those who would suffer the worst under the Real ID Act could be considered much more devout believers than the “average” Christian. And their reaction to the attempted compulsory use of such a “mark” may lead to any of a diverse range of reactions in them.

Should any level of persecution and tribulation be brought upon them for their deeper level of devotion? Is it right that our government would establish or even condone such treatment on the pious among us – even ministers of the gospel? Heaven forbid! Will this perhaps be one more series of cries from the saints toward heaven for relief, bringing judgement on America and her leaders all the more swiftly and harshly?

These are some of the thoughts that go through my own mind as I ponder the realities of an America under the Real ID Act. I hear them oft echoed among other brethren and sisters, and convey these thoughts here only to help deepen the level of understanding among those entrusted with the duties of governing our states.

### 2.3 Prophecy

We will now look at an area where the greater number of believers agree that ANY governmental system of numbering or identification is, in one way or another, or to one degree or another, both prophetic fulfillment and evil.

The prophecies pertaining to the “number of the beast” and a “mark of the beast” is a rather simple spiritual concept to grasp, with a proper understanding of the allegorical term “beast.” In the book of Daniel, this prophet himself says that the “fourth beast” is the “fourth kingdom” (Chapter 7 v. 23). In the book of revelation, again “beast” and “kingdom” are used synonymously. This fulfills the scriptural requirement for “two witnesses” that a thing be established (John and Daniel). Therefore, allowing prophecy to interpret prophecy, a very large number of bible-minded people equate a “beast” with something of a world-governing kingdom.

It takes no large leap of faith to understand that the United Nations is a world-governing kingdom, and that the United States is a huge component thereof. Contributions of our nation toward such international funding mechanisms as the International Monetary Fund cause many believers to perceive, for better or for worse, that not only is the United States a component of this “beast” kingdom, but a driving and controlling element. Ipso facto, anything the federal government does that tends to indicate an international motive also drives those who believe in such prophecies deeper toward the “separatist” mind-set when reviewing whether or not they wish to partake.

Likewise, it takes no large leap of faith to review that such things as “Social Security” are not only nearly universal, but controlled at some level by the United Nations, or at least via international treaty. The United Kingdom, Australia, Canada – virtually every nation worth mentioning in the world – has a “system” within it whereby people are numbered from birth, tracked, taxed, and indeed micro-managed by parallel systems of banking and credit. Though it be called “Centre Link” in Australia, and a Social Insurance Number (SIN) in Canada, these systems are virtually undistinguishable from our own Social Security system.

When the Real ID Act purports to tie that Social Security number to such things as state-level driving rights and full-fledged national identification (especially when it was sold to them as “not for identification purposes” when it was created), then it appears that this allegedly “American” retirement scheme has taken on a much more “beastly” role over the lives of the population. Many Christians now believe that if the Social Security Number is not itself the prophesied “mark of the beast,” that it is at least a precursor to it. Therefore, those who might have previously taken lightly the concept of having such a number assigned to them from birth are no longer so sure, and many have indeed begun trying feverishly to untangle their persons from that identifier because of the prospects of the Real ID Act’s dawning days.

This “mark of the beast” is spoken of dramatically in the Revelation of John. In Rev 13:17 it is said that “no man might buy or sell, save he that had the mark.” In practical terms, the Real ID Act will (if implemented in its current form) preclude many forms of commerce for many people – banking among them. This would not only “tie up” the assets of people who refuse to cooperate for matters-of-conscience reasons, but would in no small way stop their ability to “buy or sell,” obtain credit, receive money, etc. It would evidence many other deleterious effects on economics within our nation, and even world-wide.

The prophecy concerning our acceptance of ANY “mark” that ties us to a kingdom of this world is more than just a warning of the eventual coming of such a system. Indeed, it is a concept that believers connect as directly tied to salvation, A believer takes this subject lightly only at the risk of his soul’s survival in the next world to come. For in Rev. 14, vss. 9-11 it is said that any who take this mark will drink of the cup of the wrath of God and that the smoke of their torment rises up forever.

Rare is the person who takes any scripture seriously who has not heard of this prophesied “mark.” And while many will endlessly hope that this scenario is for a future generation to endure, a huge number of Americans, right now, believe this Real ID Act is the culmination of a spiritual battle foreseen nearly 2000 years ago by a disciple of Israel’s Messiah.

This has the potential to cause a vehement and tumultuous set of civil circumstances in our nation. Many will resort to hunger and a lack of medical care, rather than give in. Others will take up arms to defend what they have, rather than conform to a society they view (perhaps rightly) as having gone mad and departed from the wisdom of scripture’s warning. Indeed, if a revolution was created over a mere tax on tea in the 1770’s, the circumstances proscribed by a foolish and evil attempt to compel a “mark” of this nature on all our people could prove far more revolutionary in both scope and outcome.

It could, and perhaps will, mean, one way or another, the end of this nation as we have known it. On one hand, if the Real ID Act is implemented, and the people perform accordingly as spoken of in the Declaration of Independence (whereby mankind is more inclined to suffer ... than to right the wrongs ...) then freedom as we have known it is nothing but history. If, however, the courageous believers do stand resolute against this Real ID Act to prevent its implementation by force of public will alone, then this nation could be headed directly for revolutionary bloodshed.

There is an option to either of these potential disasters. State legislators can simply say “no” and exercise their proper check and balance in the federal system. By standing with our sister states, we do not risk the probable outcome of individual defiance at the citizen level.

Many individuals will certainly rebel against this Real ID situation – one way or another – and among them courageous Christian fathers. Is it to be in this nation that we will now pass legislation that can only cause spiritually-led people to be compelled to self (and soul) defense modes of thinking? That course can only cause more disasters in our Christian families. Incarceration of our men, destruction of biblical marriages through separation, and even violence, is a distinct possibility if “Real ID” becomes implemented in our states.

If, however, our states stand in unison against this outrage of mad men in Washington, DC, we have the ability to overcome whatever feigned acts of tyranny they might pretend our direction. If they attempt to enforce their acts of beastly oppression against us, then it is the duty of our states to again call into question the validity of any system of joint government that would crush the rights of individuals, and in particular the pious Christians among us. Indeed we may, and of right ought, to dissolve the federal union entirely, and start over as independent Christian states among equals of that stature.

Rather than stand as helpless state legislators looking at a benevolent but arrogant and usurping tyrant government in the capitol of a larger nation of states, perhaps state legislators should look at themselves as co-equal princes among princes in sovereign nations of their own. And as 50 nation-states currently comprise a larger union, so too could these 50 states establish yet another union and throw off the tyrant government that would rather persecute native-born Christians than to enforce their extant immigration laws already designed to protect the rights of our people.

### **Part 3: Immigration**

Now the subject of immigration is a long one, and it too carries biblical overtones. For just as Israel of old was forewarned of the punishment for their idolatry and wickedness, so too did the prophesied punishment befall them. If you are unaware of the immigration punishment, notice this prophecy of Ezekiel:

*“Now I will shortly pour out my wrath upon thee, and fulfil mine anger upon thee: I will judge thee according to thy ways, and will lay upon thee all thine abominations. ... Wherefore I will bring the*



*worst of the nations, and they shall possess their houses: I will also make the pomp of the strong to cease; and their holy places shall be defiled. ... And I will give it into the hands of the strangers to be spoiled, and to the wicked of the earth to be robbed, and they shall pollute it."*

The foregoing were assorted quotations pulled from the quite larger context of Ezekiel, Chapter 7. We see clearly that the punishment declared would be an invasion of foreign peoples who would bring down the arrogant, and that these foreigners would then possess that which once belonged to Israel.

Many believers perceive that the nation of America was given to a people who prayed for deliverance from the persecutions in Europe. But as we have departed from our first love (the Creator), so are we destined to repeat history and be punished again. This is the belief mode of a large number of believing Americans, myself included.

The flood coming through our porous southern border contains thousands who have been released from prison. Indeed the "worst of the nations" are not only coming – they are already here! The "church" that persecuted so many "Protestants" in Europe is even conspiring with these Latin American nations to accomplish a "reconquista" (re-conquest) of this Nation. Texas, Arizona, New Mexico and California are the primary targets, but no state is immune. My state of South Carolina has seen at least a 10 fold increase in immigration from the south in the past decade.

This truth cannot be ignored. It isn't even a matter of opinion about the existence of such a Catholic mission – their own news releases and printed material disclose quite clearly that the objective of the Catholic church is to aid and abet illegal immigration from Latin nations to the end that the Roman Church in America might be strengthened and conquer the Protestant people. "Take back what was taken from you" is the message of the Priests to those about to cross the border.

Is this immigration problem one symptom of a larger Divine judgement against this nation for the innocent blood on our hands? Many Christians in this nation perceive that to be the case. And whether the "blood" in question has come from legalized abortion, unrighteous foreign wars, or the persecution of our own people, the results are the same. With so much evil in our land, one might pause to reflect why it has taken this long for the judgements to begin.

Many erroneously believe that Americans are stupid. On the contrary, despite the falling standards of academics in this nation, quite a few people have been led to read and study political science and related issues on their own. Of course, many of them also intently study scripture and even international affairs as the two subjects overlap. They don't always take their preacher's "word" for things, and dig deeper to get at what is under the honey-coated surface of both the nightly news, and the preacher's dialogs.

What we have discovered is that Mexico, for example, puts an incredible number of restrictions on those who wish to migrate to their nation. Indeed, if we, as a nation, imposed the same sets of standards on migratory policy as does Mexico, the desirability of coming here would be greatly reduced. In many of our states, policies have been enacted whereby the cost of obtaining something like an "out of state" hunting license is set to match those of other states. Whichever is the greater is the cost for a non-resident. Our nation could, similarly, lay out an immigration policy that provided for our law, or the law of the nation from which the immigrant migrated, whichever was the more stringent.

In Mexico, for example, an immigrant may not buy a water-front property. Native language speaking is a requirement, and there are no bi-lingual programs in their schools, or special ballots for elections. No foreigners get the right to vote, no matter how long they are in the country. No foreigner may ever hold a public office. Only investors and professionals may migrate. A minimum of 40,000 x the minimum daily wage is the investment required. No welfare or other social programs are open to a foreigner. Foreigners may not protest, nor demonstrate, nor waive a foreign flag.

Should we institute such policies in this nation? That is, of course, an entirely different subject matter. However, if "immigration" is the underpinning rationale being used to promote the Real ID Act, then we must consider if, or not, immigration laws already protect us from invasion, and if, or not, the federal government's policies of amnesty and/or their dereliction of duty to enforce extant immigration laws are the probable causes of this current invasion. If it can be even marginally argued to the affirmative, then the solution is not to compel persecution and denial of basic liberties on our own citizens, but rather to hunt down and deport those illegally in our states.

This, of course, can also be instituted at the state level. Each state is capable, in its own sovereign capacity, to use its police powers to enforce the general laws of the United States. This includes, of course, Title 8 of the United States Code that pertains to immigration. And while the mechanics of this are best left to other discourses, the very idea that Real ID will stop illegal immigration is built on a foundation made entirely of sand. It cannot withstand serious scrutiny.

## **Part 4: CONSTITUTIONAL ISSUES**

As a co-author of a model resolution designed for states to use in dumping the Real ID Act's implementation, it is appropriate that I here address several key components of that resolution from the standpoint of constitutional law & history, as well as give an overview of the contents of the model.

The first is a pair of concepts that are firmly rooted in our nation's historical documents as well as in the notes of the framers of the Constitution itself – that being that the powers delegated to the Congress for legislative purposes are specifically enumerated, and clearly limited in their scope. The first two “whereas” line items review those limited “mandates” that the federal government may place upon the states of the union, and also recite those specific law enforcement powers held by the federal establishment. Absent a specific grant of power to legislate in the area of “national identification standards,” it requires an amendment to the federal constitution, ratified by the requisite number of states, for Congress to pass such a measure. Devoid of the authority to so legislate, our petition so notes this fact, and declares the Real ID Act “altogether void, and of no force.”

One need not look too far beyond the ratification of the Constitution to see states holding Congress accountable when they attempted, with the famous “Alien and Sedition Acts,” to pass a law beyond the scope of their delegated power. Thomas Jefferson penned the “Kentucky Resolution” to address a nearly identical “alien” problem as we now face. With Virginia not far behind in attacking Congress for their blatant disregard for the limits on their power, the Federal Government backed down.

The next several “whereas” segments of the resolution address the “protected rights” of American citizens, and particularly those of biblical faiths.

Next, all conscientious legislators and the public at large would denounce acts of “terror” against our people, and this model resolution makes it clear that our people do indeed stand by any efforts to hold accountable those responsible for the actions of September 11, 2001, whether those responsible were foreign or domestic. At the same time, any efforts to protect against future attacks must bear in mind the rights of peaceful, law abiding citizens, and that the particular proposal at hand (the Real ID Act) fails to meet that standard.

The following few “whereas” paragraphs address common concerns among staff of divisions of motor vehicle administrations, and the banking and related industries affected by the provision of the Act, as well as the extreme costs of this “unfunded mandate” that has caused arguably the greatest concern among such groups as the National Conference of State Legislatures, the National Governor's Association, etc. et. al.

We then review the massive public database that would need to be created, and identify the very real security risks inherent in that situation. False information, identity theft, and other deleterious effects must be addressed before such a proposal could even be taken seriously. The mere existence currently of 50 separate potential forms of identification within our 50 states makes it much more difficult to pirate identification successfully, than would be the case under a single, uniform system.

Further paragraphs identify the way in which the Real ID Act passed the Congress without any floor debate, being attached as a “B” component of a larger appropriations bill for tsunami relief and other purposes. Therefore, the public never had any opportunity to be heard during consideration.

In general, the model resolution line-identifies each of the real problems with the Real ID Act, and gives courageous state legislators every reason needed to co-sponsor the effort to block the implementation of this act within the borders of our sovereign states. It directs that Congress repeal the measure, giving them at least some opportunity to “save face” in light of the seriousness of their extra-constitutional journey with the initial passage of this legislation. Copies of the state resolution are directed to be forwarded to the President, Attorney General, and congressional representatives and senators from the state passing the proposed resolution.

## **CONCLUSION**

To the end that America withstand any and all assaults on the liberties of her people, and consistent with the Constitutional standards for elected officials, it is imperative that our States stand resolute against the Real ID Act. Because the practical implementation of the policies contained in such act will have a direct impact on the liberties of the most devout of bible believing and humble people in this great land of ours, state legislators should carefully understand how that law will impact on these believers. To prevent any Christian from being denied due process, persecuted, or in the enjoyment of any right or liberty bestowed on us by our Creator, and protected by our collective bills of rights, the Real ID Act must be stopped in its tracks.

Furthermore, under no circumstances should any state allow itself to be either blackmailed into complying with “Real ID,” nor should the money, or lack thereof provided by the federal government, be any excuse. For if Congress had the slightest authority under the Constitution to implement Real ID, then it would be our states’ obligation to come up with the money to implement it. The “unfunded” component of this mandate is, in the view of many people, quite a moot point. The fact is that the powers vested in the federal government by the Constitution contain NO PROVISION whereby Real ID can be construed as a valid exercise of federal power. Therefore, it is an *unauthorized and illegal* mandate, matters of funding notwithstanding. Indeed, if Congress appropriated every dollar required to implement this in every state of the union, it would still be a measure replete with both security and constitutional problems. Ipso facto, the Act is entirely void on its face, and should in no wise be made policy or implemented by any of our sister states.

The arguments put forth by those claiming this Act will have some salutary impact on illegal immigration are extremely weak at best. Other lawful means exist to address that component of this situation.

The beliefs of many of our citizens to withstand even the appearance of evil present the greatest threat where implementation of the Real ID Act is concerned. The very real potential of massive civil disobedience is present with the implementation of this law. And even though there are many who, for reasons of their faith, will not vocally or physically rebel against it, there exists the reality that many will simply crank up to another level their “separatism” from the world. Quietly dropping off the radar by simply refusing to participate, these people will suffer in many ways on account of their beliefs.

State legislators are at the forefront of this battle, standing as a potential protective shield for their state’s people. Whether or not these individual legislators have the collective will to exercise and perform this inherent duty of their office is the only question that remains.

May 11, 2005

## *The End of America: May 10, 2005*

<http://www.jpfo.org/alert20050511.htm>

On Tuesday, May 10, 2005, America became a true police state. Your U.S. senators voted -- unanimously, with no discussion, and without even reading the bill -- to create a national ID card.

The Real ID Act blackmails state governments into turning their drivers licenses into a draconian tool of the federal homeland security apparatus. If states refuse, their citizens lose such "privileges" as being allowed to board an airplane, enter a federal building, or apply for social security. President Bush is expected to sign the bill eagerly on Thursday.

In three years -- by May 2008 -- this Stalin-style internal passport will be an American reality. But your government will have *more* control over you than Stalin ever dreamed in his most violent, vicious, anti-freedom dreams. (See links to the text of the law and articles about it at the bottom of this article.)

But that's only the beginning.

The creator of the Real ID Act, Rep. James Sensenbrenner, smiles and tells us that his Real ID Act is all about "solving illegal immigration" or "preventing terrorists from entering the country." This is one of the biggest of the thousands of "Big Lies" we've heard from the tyrants in Washington. The Real ID Act is about tracking and controlling Americans. You. Me. Our children. Everybody.

In May 2008, barring a miracle, America as we once knew it will be in ruins. It will be gone. And the rights of gun owners will be among the first scheduled for destruction.

### **GUN OWNERS: PREPARE TO RESIST**

Here's your future:

You walk into a gun store, fill out your 4473, and show your government ID just as you now do. But instead of looking at your license and taking down some information, the clerk runs the license (which is likely to contain a radio-frequency ID chip) through a scanner. Your purchase is instantly recorded in your *state* drivers license registry. The federal government isn't currently allowed to keep a gun registry. But no problem; the Real ID act gives them an open door into your state records.

Complete information on every firearm you buy will be instantly available to every police officer (and possibly every government employee, store clerk, or computer hacker) you ever encounter. You'll be an instant criminal suspect every time you deal with someone who has access to the database. Just as travelers are encouraged to get background checks and give fingerprints to avoid some of the worst excesses of TSA screening, gun owners will be encouraged to get background checks and give whatever biometric ID the Department of Homeland Security requires. This will be sold as a "benefit," ensuring you'll never again experience an "instant-check" delay. In fact, Congress, the ATF, or the FBI might even "mandate" 5-day or 15-day delays for anyone not enrolled in the "Trusted Firearms Buyer" program.

The private purchase "loophole" will be closed, so that all gun buyers must make trackable purchases. (The ultimate goal is for *every* purchase of every kind to be trackable.)

Buying ammo? The store scans your national ID card and -- bingo! -- your purchase is registered in the state database.

The federal government or state governments can now also effectively legislate limits on the amount or kind of ammunition you're "allowed" to purchase. Try to buy more and the database instantly rejects you.

The federal government or state governments can now also effectively legislate limits on the number of guns you may own. Try to buy more, and the database rejects you.

Eventually -- after the federal government "discovers" the obvious, that national ID won't stop either illegal immigration or terrorism -- the old attack on "evil guns" will resume. When they want your .50 BMG they'll know just where to find it (because the Real ID act says your home address must be revealed). When they want your evil "scoped sniper rifle" (you know, the one you hunt

deer with), they'll know just how to get it. Ditto with you "Saturday Night Special" or your "assault weapon."

If you don't surrender your guns, well, then the Department of Homeland Security will cut off your driving "privilege," as well as your right to escape the growing police state via plane. You'll be a prisoner in your own home, in your own country. Or you'll be forced to function as an outlaw, operating and living a precarious existence beneath the government radar.

### **PARANOID? OR PAYING ATTENTION?**

You say these projections are ridiculous? That we're paranoid?

Well, frankly, if the Real ID Act doesn't make you paranoid, you're not paying enough attention.

We ask you to consider the long-term impact of a few other acts of government.

In the 1930s, Congress promised us that our social security numbers would never, absolutely never, be used for identification. Now, they're the key to everything about us -- and without a social security number you won't get a drivers license and you won't even be "allowed" to drive after May 2008.

In 1913, Congress and the media swore to us that the brand- new income tax would only affect the rich. Well, how rich do you feel after paying 40 percent of your income (or more!) in taxes?

This is the way government works. They've even got a term for it: mission creep. And there is no creepier mission than the mission the federal government has currently set itself: to track everyone, everywhere, and to control what we do.

We warned you in *The State vs. the People* that this was coming. That book is still relevant, still a good read, and still filled with information about what our future will be like in this new American police state.

Be forewarned. Be aware.

### **REAL ID: IT'S THE LAW AND IT'S CRIMINAL**

Please take a moment to go to this site: <http://www.rebelfirerock.com/home.html>. Click on the link that leads to the song "Justice Day." Listen to the music or read the lyrics. Here's the opening of the song:

*You're the boot.  
Stomping on the human face forever.  
You're the eye.  
Staring down on everyone and ever seeing all.  
You're the lie.  
Twisting all our minds into your whoredom.  
You are Death.  
You are war.  
You are slavery.  
You're the law.  
You're the law.  
You're the LAW!*

George Orwell was the first to describe totalitarianism as a "boot stomping on the human face forever." But in Orwell's day Americans would have had a hard time believing that the law -- the good old, all-American legislature -- all those smiling senators and "representatives" would be the ones to plant their iron heels in our faces. Back in those innocent days, we imagined tyranny would come from *outside*.

Well, tyranny is here. And it's a gift from the very people we so trustingly put into office.

### **Tyranny is THE LAW.**

Is this a way to run a country? Tacking something as onerous as national ID onto a must-pass bill and making it law without any debate? What does this say about people the gun owners consider their friends? In the House, where the bill containing the Real ID Act passed 368-58, only three Republicans

voted against it. Here's the final roll-call vote [ED NOTE: SEE THE JPFO.ORG WEB SITE] so you can see how your own congressperson voted.

In the Senate, not one person cared enough about freedom to vote against it -- or even to demand that senators *discuss* it.

(The Real ID Act originally passed the House in February as a standalone bill (H.R. 418) by a vote of 261-to-161. House leaders, realizing national ID would have been in trouble in the Senate, then added it to a must-pass military appropriations bill in a cynical ploy to make it almost impossible to fight national ID.)

Turning America into a full-fledged police state was just business as usual to your representatives. And, just as Adolf Hitler scrupulously followed German law while committing his horrors, so your "representatives" and the bureaucrats you face at the national-ID drivers license bureau will also be following the law -- the Real ID law that allows them to enslave you.

(To see what a real Bill of Rights leader would do, read the novel Hope by Aaron Zelman and L. Neil Smith)

## **WHAT NEXT?**

We have two choices now: Resist or submit.

More than 600 organizations, from the American Civil Liberties Union to the National Governors Association, opposed the bill. Even the American Association of Motor Vehicle Administrators (which loves national ID and was largely responsible for an earlier attempt at such legislation nine years ago) criticized it.

We can expect lawsuits against national ID, including at least one suit led by state governments.

However, nearly all the opposition from state governments focuses on one area: They're upset because the federal government didn't offer them extra money to enslave us. If Congress bribes them with enough millions and billions, they'll gladly sell our freedom.

Ultimately, real resistance is up to us, as individuals. There are certain courses of action JPFO cannot recommend. But every freedom lover should be pleased if all the people who had a hand in creating Real ID act lost their jobs -- soon. And those individuals who truly value their (and their children's) futures should seriously consider making national ID their line in the sand.

We have already heard from many people saying they will drive without a license rather than submit to a license that has become a Stalinist control document. We just hope their resolve stays equally strong when they face a world in which it's impossible to buy, sell, retire, travel -- or buy a gun -- without national ID.

We ask you to remember men like Alexandr Solzhenitzyn and Natan Sharansky. Both stood up and boldly opposed a tyrannical regime in the Soviet Union. Both risked their lives. Both suffered horribly for their resistance and their protests. But eventually, they triumphed -- and the Soviet Union crumbled.

We are in need of such people, and such courage, today. We cannot wait for *someone else* to stand up and show that kind of integrity.

We must become the kind of people we admire if we are ever again to live in a nation we can trust.

G-d help us if we fail.\*

- The Liberty Crew

## REAL ID has REAL IMPACT

June 2005

<http://www.churchworldservice.org/Immigration/REALIDupdate.html>  
See also: [http://www.churchworldservice.org/pdf\\_files/IRP/FaithfulForsaken.pdf](http://www.churchworldservice.org/pdf_files/IRP/FaithfulForsaken.pdf)

On May 11, 2005, President Bush signed the REAL ID Act into law, over the objections of advocates for asylum seekers and immigrants. Church World Service was among scores of organizations that fought the Act, in particular provisions that will make it more difficult for legitimate asylum seekers — people fleeing political, religious, and other persecution — to find safe haven in the United States.

Proponents claim the new Public Law 109-13 will help prevent terrorists from getting asylum, but opponents counter that existing law already barred anyone who may reasonably be considered a danger to U.S. security.

The new law does include two pieces of good news for asylum seekers and asylees. It eliminates the caps on:

- The number of asylees per year that can get lawful permanent residence. Before, only 10,000 asylees per year could adjust to permanent status, resulting in waits of up to 15 years for asylees to adjust status.
- Asylum for persons resisting coercive population control methods, such as involuntary sterilization. The old cap was 1,000 per year.

But other provisions of The REAL ID Act are chilling. They allow judges and asylum officers to deny an asylum claim based on:

- Minor inconsistencies in testimony that have nothing to do with the asylum claim. For example, the asylum application requires that applicants list all home addresses in the past five years and every school ever attended, including the dates spent at each. At the asylum hearing months, sometimes even years, later, an applicant might not recall these details exactly. An applicant who forgets the exact dates she attended primary school could have her application rejected.
- Inconsistencies between the airport interview and subsequent testimony. Airport interviews are notoriously poorly translated and recorded. Asylum seekers may arrive exhausted, may be shackled, and often have no idea why they are being questioned.
- The applicant's "demeanor." When applicants recount their experiences, they might not show the emotions a judge expects. Some trauma survivors might have a "flat affect," and in some cultures it is not polite to look an authority figure in the eye. While the new law requires judges to consider "the totality of the circumstances," they may reject a claim based on their reading of an applicant's body language.
- The claim's "inherent plausibility." This means a judge can decide that an asylum seeker's story is implausible even if the applicant offers specific, detailed, uncontested testimony. But what may strike a judge as "inherently implausible" may be quite true. Asylum applicants often have unusual, amazing stories of escape.

For example, said CWS/IRP Legal Programs Supervisor Jennifer Guilfoyle, a former client of hers had been a slave for her entire life. "Part of the reason that she was able to finally run away to freedom was that the slaveowner's son secretly taught her to speak and read basic French," she said. "No one else knew she was learning French. She thinks everyone thought the young man was raping her.

"Under The REAL ID Act, the judge might well have found her story 'inherently implausible' and denied her asylum, even though her testimony was detailed and specific and she offered other evidence to corroborate her story," Guilfoyle said.

**National Conference of State Legislatures**  
**REAL ID ACT OF 2005**  
**DRIVER'S LICENSE**  
**TITLE SUMMARY**

<http://www.ncsl.org/standcomm/sctran/realidssummary05.htm>

On May 11, 2005, President Bush signed into law the “REAL ID Act of 2005,” which was attached to the “Emergency Supplemental Appropriation for Defense, the Global War on Terror, and Tsunami Relief, 2005” (H.R. 1268, P.L. 109-13). Title II of REAL ID—“Improved Security for Driver’s License’ and Personal Identification Cards”—repeals the provisions of a December 2004 law that established a cooperative state-federal process to create federal standards for driver’s licenses and instead directly imposes prescriptive federal driver’s license standards. The following table summarizes the act’s driver’s license title.

<b>Provisions / Citation</b>	<b>Summary</b>
<b>Repeal of 9/11 Commission Implementation Act DL/ID Provisions</b> §206	Repeals §7212 of 9/11 Commission Implementation Act of the Intelligence Reform and Terrorism Prevention Act of 2004 ( <i>Public Law 108-458</i> ), which directed DOT in consultation with DHS to establish a negotiated rulemaking committee of state and federal officials along with other stakeholders to created federal minimum security standards for DL/IDs
<b>Minimum Standards for Federal Use</b> §202(a) §205(b)	A federal agency may not accept a driver’s license or personal identification card (DL/ID) after May 11, 2008, unless the state has been certified by the U.S. Department of Homeland Security (DHS) in consultation with the U.S. Department of Transportation (DOT) to meet the requirements of the law  The DHS Secretary may grant a state an extension to meet the certification requirement if the state provides adequate justification for noncompliance
<b>DL/ID Document Standards</b> §202(b)	At a minimum, a state shall include the following information and features on a DL/ID: (1) person’s full legal name, (2) person’s date of birth, (3) person’s gender, (4) DL/ID number, (5) digital photograph, (6), person’s address of legal residence, (7) person’s signature, (8) physical security features designed to prevent tampering, counterfeiting or duplication for fraudulent purposes, and (9) a common machine-readable technology with defined data elements
<b>Minimum DL/ID Issuance Standards</b> §202(c)(1)	At a minimum, a state shall require the presentation and verification of the following information: A photo identity document (except that a non-photo identity document is acceptable if it includes both the person’s full legal name and date of birth) Documentation showing the person’s date of birth Proof of the person’s social security account number (SSN) or verification that the person is not eligible for an SSN Documentation showing the person’s name and address of principal residence
§202(c)(3)(B)	A state shall not accept any foreign document other than an official passport
§202(d)(3)	A state shall subject each DL/ID applicant to mandatory facial image capture



§202(d)(6)	A state shall refuse to issue a DL/ID to a person holding a DL/ID from another state without confirmation that the person is terminating or has terminated the other state's DL/ID
§202(d)(10)	A state shall limit the period of validity of all DL/IDs that are not temporarily issued to a period that does not exceed eight (8) years
<b>Verification of Documents</b>	Before issuing a DL/ID, the state shall verify, with the issuing agency, the issuance, validity and completeness of each document to be presented
§202(c)(3)(A) §202(d)(5)	A state shall confirm with the Social Security Administration a SSN presented by a person using the full SSN; in the event a SSN already is registered to or associated with another person to which any state has issued a DL/ID, the state shall resolve the discrepancy and take appropriate action
§202(d)(4)	A state shall establish an effective procedure to confirm or verify a renewing applicant's information
<b>Immigration Requirements</b> Verification of U.S. Citizenship and Lawful Status §202(c)(2)(A), (B)	Before issuing a DL/ID, a state shall require and verify valid documentary evidence that the person: (i) is a U.S. citizen, (ii) is an alien lawfully admitted for permanent or temporary residence, (iii) has a conditional permanent resident status, (iv) is a refugee or has been granted asylum, (v) has a valid, unexpired nonimmigrant visa or nonimmigrant visa status, (vi) has a pending application for asylum, (vii) has a pending or approved application for temporary protected status, (viii) has approved deferred status, or (ix) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence or conditional permanent resident status
Temporary DL/ID §202(c)(2)(C)	A state only may issue a temporary license to persons who presents documentary evidence for the categories (v) through (ix) under the evidence of lawful status section above. A temporary DL/ID: Shall be valid only for the period of the applicant's authorized stay in the U.S. or one (1) year if there is no definite end to the period of stay Shall indicate clearly that it is temporary and shall state the date on which it expires May be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary DL/ID has been extended by DHS
Non-Conforming DL/IDs §202(d)(11)	In any case in which a state issues a DL/ID that does not satisfy the federal requirements, a state shall ensure that that the DL/ID: (A) clearly states on its face that it may not be accepted for federal identification or any other official purpose, and (B) uses a unique design or color indicator to alert federal agencies or other law enforcement personnel that it may not be accepted for any such purpose
SAVE Participation §202(c)(3)(C)	No later than September 11, 2005, a state shall enter into a memorandum of understanding with DHS to routinely utilize the automated system known as System for Alien Verification for Entitlements (SAVE) to verify the legal presence status of a non-citizen

	applying for a DL/ID
<b>Security and Fraud Prevention Standards</b> §202(d)(7), (8) and (9)	<p>A state shall ensure the physical security of locations where DL/IDs are produced and the security of document materials and papers from which DL/IDs are produced</p> <p>A state shall subject all persons authorized to manufacture or produce DL/IDs to appropriate security clearance requirements</p> <p>A state shall establish fraudulent document recognition training programs for appropriate employees engaged in the issuance of DL/ID</p>
§203(a)	Establishes a federal criminal penalty for persons who knowingly traffic in false or actual authentication features for use in false identification documents, document-making implements, or means of identification
<b>Data Retention and Storage</b> §202(d)(1), (2) and (13)	<p>A state shall employ technology to capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format</p> <p>A state shall retain paper copies of source documents for a minimum of seven (7) years or images of source documents for a minimum of ten (10) years</p> <p>A state shall maintain a state motor vehicle database that contains: (A) all data fields printed on DL/IDs issued by the state, and (B) motor vehicle drivers' histories, including motor vehicle violations, suspensions, and points on license</p>
<b>Linking of Databases</b> §202(d)(12)	A state shall provide electronic access to all other states to information contained in the motor vehicle database of the state
<b>Grants to States</b> §204	<p>DHS may make grants to a state to assist the state in conforming to the minimum federal standards</p> <p>Authorizes such sums as necessary for the fiscal years 2005 through 2009 to carry out the law (but does not appropriate any money)</p>
<b>Authority</b> §205	Grants authority to DHS to issue regulations, set standards, and issue grants under the law in consultation with DOT and the states

Contact [Cheye Calvo](#) or call 202-624-8661, NCSL's Washington Office for more information.

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# **Real ID Will Cost States More than \$11 Billion NGA, NCSL, AAMVA Release Findings; Issue Practical, Cost-Effective Solutions**

Contact: Jodi Omear

Office of Communications, National Governor's Association

<http://www.nga.org/portal/site/nga/menuitem.6c9a8a9ebc6ae07eee28aca9501010a0/?vgnextoid=7aa10a8066bcd010VgnVCM1000001a01010aRCRD>

WASHINGTON—A comprehensive analysis of the federal Real ID Act was released today, revealing a cost to states of more than \$11 billion over five years. The report—which reflects findings from a survey conducted by the National Governors Association (NGA), National Conference of State Legislatures (NCSL) and the American Association of Motor Vehicle Administrators (AAMVA)—sets forth the consequences and costs of implementing the act and makes recommendations to facilitate a more realistic approach.

The federal Real ID act creates national standards for issuing state drivers licenses and identification cards. Among the costly requirements necessary for implementation of the law, states will likely be required to: re-issue drivers licenses and identification cards to all 245 million current holders within five years; establish on-site identification verification procedures at the source of issuance; and meet specific security and production requirements for the new card. Detailed data provided by the 47 jurisdictions that responded to the survey indicates that among the cost of the changes to the driver's licensing process are a one-time calculable expense of nearly \$1 billion and ongoing costs of more than \$10.1 billion for the first five-year enrollment period.

The report also suggests additional costs, such as the added time and effort citizens will spend to comply with the state motor vehicle department. Anticipating three to four identity documents per applicant, with more than 80 million transactions performed annually, applicant processing time will more than double for citizens in most states, with waits in some areas increasing by up to 200 percent. Several provisions under consideration by the Department of Homeland Security were not addressed by the survey and could potentially further impact citizens and DMVs and add significantly to the costs described above.

"States feel it is vitally important for Congress and the administration to understand the substantial fiscal and operational cost of altering state systems," said NGA Executive Director Raymond C. Scheppach. "This report identifies the most significant costs of Real ID compliance and describes the impact to states' business processes."

"There's no question that state legislators believe driver's licenses should be as secure as is possible," said NCSL Executive Director William T. Pound. "The \$11 billion question is, 'Who's going to pay for it?' State legislators are eager to work with Congress and the administration to ease the impact of Real ID and look forward to doing so."

Among the recommendations outlined in the report, states asked the federal government to:

- extend the compliance deadline;
- provide the funds necessary for states to comply with Real ID;
- provide the federal electronic verification systems necessary to comply with the law;
- require states to employ electronic verification systems only as they become available;
- implement a 10 year re-enrollment schedule;
- adopt uniform naming conventions to facilitate electronic verification between files;
- allow reciprocity for persons already vetted by the federal government
- establish card security criteria based on performance—not technology; and
- grant the Secretary of Homeland Security the flexibility to recognize innovation at the state level.

"As those primarily responsible for issuing licenses and identification cards, governors, state legislators and motor vehicle administrators are working together to ensure the act is implemented in a cost-effective and operationally feasible manner," said AAMVA President and CEO Linda Lewis-Pickett. "Our goal is to improve the security and integrity of licensing and identification systems to ensure maximum safety and minimum inconvenience for all Americans."

## ***Alert: Real ID Act Will Increase Exposure to ID Theft***

By: Beth Givens

Posted: February 28, 2007

[http://www.privacyrights.org/ar/real\\_id\\_act.htm](http://www.privacyrights.org/ar/real_id_act.htm)

If you think identity theft is bad now, wait until something called the Real ID Act goes into effect. This law federalizes and standardizes state driver's licenses for all 50 states, and it will result in something that has been resisted in this country for a long time -- a de facto national identity card.

The Real ID Act was pushed through Congress in 2005 with little meaningful debate. It imposes sweeping changes on state driver's licenses that will result in significant new fees and hassles for everyone who needs a license or ID -- not to mention posing a new threat to Americans' privacy. And, our experience suggests that if Real ID becomes the standard for driver's licenses, it will worsen the problem of identity theft.

The Privacy Rights Clearinghouse (PRC) has worked with thousands of ID theft victims, providing them with information and assistance in regaining their financial health. It usually takes months to repair the damage that ID thieves are able to cause in just a few minutes -- if there's an especially aggressive thief, it can take a year, even more. And during that time you're in credit limbo. You can't get a credit card, take out a loan, refinance your home -- or if you do, the cost of your credit is much higher than it otherwise would be.

A lot of what makes it so difficult for victims is that they run up against a presumption that the transactions completed in their name are legitimate. Banks, merchants, and other creditors assume that the purchases that were made and the loans that were given belong to the victim -- and the victim is forced to prove otherwise.

Real ID may just strengthen that presumption. If someone succeeds in getting a counterfeit Real ID under your name, you'll have to confront a perception that Real IDs are more secure and difficult to obtain fraudulently.

Unfortunately, we all know that these IDs will be counterfeited within hours of release -- and if they are perceived as super-reliable, they will be all the more valuable and attractive as a target for crooks. Crooks have always proven to be very clever and able to make IDs look realistic, and we have no reason to doubt this will be any different. They will figure it out very quickly -- or simply bribe a DMV official somewhere in the country to provide a genuine (but fraudulent) card. A number of cases of bribery at DMVs have come to light in recent years. And merchants and government clerks simply are not experts in determining whether an ID they're looking at is the real thing.

Real ID will also create new opportunities for ID thieves to commit their crime. The law requires DMVs to store scanned copies of birth certificates, Social Security cards, and any other documents that individuals present when they apply for a license. It creates a national linked database allowing millions of employees at all levels of government around the nation to access personal data. And it mandates a nationally standardized "machine-readable zone" that will let bars, merchants and other private parties scan personal data off licenses with greater ease than ever before, putting all that information into even greater circulation.

Real ID is the subject of an ongoing battle in the state legislatures, many of which are moving toward rejecting participation. Consumers concerned about privacy and identity theft might want to make their voices heard by contacting their state or federal legislators.

An anti-Real ID Web site that includes the status of efforts in all 50 states and what consumers can do to take action is at [www.realnighmare.org](http://www.realnighmare.org).

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# **The REAL ID Act: How It Violates U.S. Treaty Obligations, Insults International Law, Undermines Our Security, and Betrays Eleanor Roosevelt's Legacy**

By NOAH S. LEAVITT

<http://writ.news.findlaw.com/leavitt/20050509.html>

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The most high-profile provision of REAL ID would mandate that applicants for state drivers' licenses must prove they are in the U.S. legally, in order to get identification that may be used at federal facilities (airports, national parks, government offices, and so on.).

However, REAL ID is much broader than that. It will fundamentally reshape the U.S.'s policies governing the admittance and removal of foreigners from our country. And this change, in turn, will alter the way the rest of the world thinks about the United States.

Despite the extensive debate around REAL ID over the past several months, one vital fact has surprisingly been overlooked: Many provisions of the legislation violate treaties that are part of U.S. law. Others insult well-established international norms, including norms the U.S. itself helped develop; often, they betray Eleanor Roosevelt's great legacy.

In the end, this aspect of the Act may be its biggest flaw. It also, as I will argue, may undermine the Act's very justification - by making America less, rather than more, secure.

## **Background: The History of the REAL ID Act**

The arguments about the REAL ID Act started last winter, as Congress worked to pass legislation to implement the recommendations of the independent, bipartisan 9-11 Commission. During those debates, Rep. Sensenbrenner and others argued for the inclusion of a number of restrictive provisions, that opponents argued were anti-immigrant. But 9-11 Commission members spoke out against these provisions, arguing that they would not make any significant contribution to public safety and security.

After extensive public debate, as well as several hearings, a few of the harshest measures were removed from the final version of the legislation. The resulting draft eventually was passed by Congress as the Intelligence Reform and Terrorism Prevention Act of 2004.

But this year, Rep. Sensenbrenner quickly reintroduced the controversial provisions he had removed. And on February 10, the House of Representatives passed Sensenbrenner's full package.

\_\_\_\_\_ A month later, that same legislation was attached to a huge emergency appropriations bill - a "must sign" piece of legislation - to fund the U.S' military efforts in Iraq and Afghanistan. Troublingly, the House passed this massive funding bill without any public debate or hearings.

. When the debate shifted to the Senate, the REAL ID Act was not included. But when the bill went to the Conference Committee just two weeks ago, House supporters pushed strongly for the provisions to be included.

During debates, a couple of the most unsavory proposals - such as one that would have created private bounty hunters to enforce immigration law - were removed. But most of the troubling provisions remain - even though the legislation is on its way to be signed into law, likely this week.

## **What REAL ID Will Do, and What the Arguments on Both Sides Have Been**

Rep. Sensenbrenner and other supporters of REAL ID say that the Act will make the U.S. safer from terrorists. For example, in support of the drivers' license/legal immigrant provision, Sensenbrenner has pointed out that 18 of the 19 9/11 hijackers used drivers' licenses or other types of state identification cards to gain access to the airplanes.

But opponents point out that the drivers' license provisions may only force those who are illegal aliens underground, and thus make the roads more dangerous. They also warn that these provisions will likely be an unfunded mandate to states - one that financially-strapped states will be forced to spend hundreds of millions of dollars to administer.

According to a recent statement from Sensenbrenner, REAL ID will tighten the asylum system by "weeding out fraudulent asylum applications made by people lying through their teeth." It will shut down "Smuggler's Gulch" along our borders, and protect us from "terrorists, drug smugglers, alien gangs and violent criminals."

Opponents, however argue that REAL ID will make it difficult for people fleeing persecution to find refuge in the US; they say many of the asylum applications "weeded out" may be based on cases of genuine oppression, with dire consequences if the applications are denied.

All of these points - as well as others that have been made -- are important. In this column, however, I will focus on the additional point that REAL ID violates international law.

### **The Relevant Provisions of International and Domestic Law**

International human rights norms are based in the Universal Declaration of Human Rights ("Universal Declaration"), which the U.N. adopted in 1948. The U.S., led by Eleanor Roosevelt, was instrumental in drafting and lobbying for the Declaration.

The Declaration then gave rise to two treaties. One is the International Covenant on Civil and Political Rights (ICCPR). The other is the International Covenant on Economic, Social and Cultural Rights (ICESCR). Both came into force in 1976.

Taken together, these three instruments are known as the "International Bill of Rights" (in large part because their principles are modeled on the Bill of Rights in the U.S. Constitution). The International Bill of Rights is recognized around the world as the core set of human rights principles by which all nations ought to abide.

The U.S. has signed and ratified the ICCPR. Under Article VI of the U.S. Constitution, that means the treaty should be the "supreme Law of the Land." It still, however, may not be able to form the basis for litigation. The U.S. Senate regularly attaches declarations saying that ratified treaties are non-self executing and that they need additional domestic legislation to become enforceable in U.S. courts - and the ICCPR is no exception.

Meanwhile, the status of the ICESCR is more problematic; the U.S. has signed, but refuses to ratify it.

One additional fundamental treaty that establishes norms for how countries must treat individuals fleeing persecution is the 1951 Convention Relating to the Status of Refugees ("Refugee Convention"). The large majority of countries in the world has signed, and follows, the Refugee Convention. The U.S. itself has incorporated much of the Refugee Convention into its domestic immigration law system.

(Overall, however, the U.S. is lagging far behind many other nations in utilizing such norms to inform its domestic law. The constitutions of growing number of countries direct judges to follow international law, or to interpret domestic law to be consistent with international law. South Africa's Constitution, for example, looks to international norms to inform its domestic court decisions.)

### **How the REAL ID Act Violates United States Law, In the Form of the ICCPR**

Let's begin by taking a look at the ICCPR - a treaty ratified by the United States - and how the REAL ID Act violates, and abrogates, it.

Article 14 of the ICCPR provides that persons convicted under law shall have the right to review by a higher court. But REAL ID purports to eliminate all habeas corpus review for immigrants who claim they have been treated unlawfully by the Department of Homeland Security. It is also purports to strip federal judges of the power to temporarily stay the immigrants' deportation, pending appeal of a negative determination.

Article 22 of the ICCPR, and Articles 7 and 8 of the ICESCR, provide for the right to organize collectively at the workplace, and the right to strike. But the REAL ID Act allows the Department of Homeland Security to ignore local, state and federal laws to the extent that the Secretary believes necessary

to "expeditiously" complete the security border fences with Mexico and Canada. Collective bargaining laws are not exempt. (Nor are laws on environmental protection, safety and discrimination).

Article 17 of the ICCPR - like Article 12 of the Universal Declaration - provides for a right to privacy. Yet, as discussed earlier, the REAL ID Act sets complex federal standards for all drivers' licenses, and compels states to scan all passports and visas and share the massive database of information created - without privacy protections. This collected information will include social security number, phone numbers, residence addresses, and in some cases, medical history (on vision, needed medication, and more).

### **How the REAL ID Act Violates International Law and Norms**

In addition to gutting a treaty the U.S. has signed and ratified, the REAL ID Act also undermines Eleanor Roosevelt's legacy, and reneges on the United States' commitment to the world, as embodied in the Universal Declaration of Human Rights.

Article 14 of the Universal Declaration -- along with the entire Refugee Convention -- provides for the right to seek asylum when an individual fears persecution for a fundamental aspect of their identity. These aspects include race, religion, nationality, membership in a particular social group, and political opinion.

The REAL ID Act, however, makes a mockery of that right by requiring asylum seekers to demonstrate that one of those enumerated grounds is one of the "central reasons" for their persecution - not just "a" reason.

How is this to be proven? Must the asylum seeker read the mind of his or her persecutor? Yet without this proof, the asylum seeker will be sent back to his or her country of origin - where they will be likely to face additional, and possibly worse, persecution.

In this respect, the legislation not only violates the Universal Declaration but, much more deeply, it also mocks America's longstanding claims of being a beacon of hope and freedom and democracy to people living under tyrants and dictators.

The REAL ID Act, by sending a harsh message to asylum seekers who regard the U.S. as a haven for safety from repressive countries, undermines such claims. The Statute of Liberty, on the day this Act passes, ought to shed a tear.

#### **Why the REAL ID Act May Actually Harm, Not Bolster, National Security**

Supporters of the REAL ID Act claim that its provisions will make America safer from terrorists.

Yet, one of the main reasons America is a target is the perception that it is arrogant, and lacks respect for people beyond our borders. By flouting well-known international norms, the REAL ID Act only exacerbates such a perception.

Even as the U.S.'s own allies - such as the European nations who are linked through the European Court of Human Rights - try to connect their international norms with their domestic system, the U.S. blatantly violates these very norms.

It thus risks alienating the very nations on which we have repeatedly been dependent in war-on-terrorism enforcement. These - and many others - are among the nations we most need to cooperate with, and share information and expertise with, if we are to effectively prevent another attack. (This is equally true as it pertains to other national security goals, such as partnering with Europe to challenge China's growing military capabilities, as pointed out in the June edition of *The Atlantic Monthly*) Unfortunately, the REAL ID Act only moves us even further apart.

By contrast, abiding by the international norms the U.S. has promised to honor - and even, in some cases, touted - would present the U.S. as a nation that wants to share a set of values with the rest of the world. It would reassure allies that they are right to join together with the U.S.

For all these reasons, the REAL ID Act may compromise our collective security more than it protects it. Thus, refusing to support this Act is not only the right thing to do; it is also the wise and safe thing to do.

As Eleanor Roosevelt said, "One's philosophy is not best expressed in words; it is expressed in the choices one makes... and the choices we make are ultimately our responsibility."

## **Is Real ID a sign of the apocalypse? Kurk gets high praise for rallying opposition**

By ERIC MOSKOWITZ

Monitor staff

April 23, 2006 10:00AM

Rep. Neal Kurk has become a hero to the anti-Real ID set for the rousing, Patrick Henry-style floor speech he delivered last month against the law creating a national ID and database. Kurk's speech not only prompted the House to overturn a 12-1 Transportation Committee recommendation and pass a bill rejecting Real ID in New Hampshire, but it also inspired a movement.

An existing group called NH CASPIAN already opposed Real ID. But Kurk's speech and the House vote gave rise to the Granite State ID Coalition, a network that includes libertarian and progressive groups alike.

It also triggered a rally at the State House and visits to New Hampshire by leaders of the Cato Institute and the American Civil Liberties Union to appeal to the Senate to pass the bill. Before Kurk's speech, few thought the bill had a chance, said Katherine Albrecht, a consumer advocate and leader of the anti-Real ID movement.

A host of websites link to Kurk's speech, and bloggers have lionized the Weare Republican. "It's a thing of beauty. It gave me shivers," a poster at Infowars.com wrote of Kurk's address. "Truly awesome," another wrote, at Freetalklive.com.

But Kurk - the king of privacy bills in the House - has also attracted worship from a less likely source: conservative Christians who believe Real ID is a sign of the apocalypse.

The anti-Real ID cause has "benefited immensely" from contributions by groups that believe the law is a fulfillment of a biblical prophecy that says people will be numbered and marked before the arrival of the antichrist, the National Journal's Technology Daily reported last week.

Sure enough, Kurk was invited to appear on the syndicated Politics and Religion radio show hosted by Irvin Baxter, the Colorado-based founder and president of Endtime Ministries and Endtime magazine, which filters world events through Bible prophecy. The May-June issue will be devoted to Real ID.

The Real ID Act, which passed Congress and was signed by the president last year, would require all states to conform to national ID standards by 2008. New Hampshire and Kentucky have been invited to serve as the pilot states. The law would require anyone wishing to enter a federal building, fly on an airplane or open a bank account to have the nationally recognized ID or a passport. It would also put every ID holder in a central database.

Kurk believes Real ID would infringe on privacy and invite hackers to steal personal information without making the country safer from terrorism or deterring illegal immigration.

Baxter believes Real ID is a prelude to embedding radio-frequency chips in human skin, which would just about be the "mark of the beast."

"That's where we are headed right now. The prophecy states that you will have to receive a mark on your hand or in your forehead," he said.

At the end of their 45-minute radio interview, Baxter praised Kurk for taking "a stand for that which is right. We need about 1,000 more like him right now. We certainly will be praying for Rep. Kurk."

Kurk said he was surprised by the religious support for his cause but said it was indicative of the way Real ID had triggered opposition from across the political spectrum.

Albrecht said those who foresee the apocalypse are playing a major role in driving the opposition elsewhere but represent only a small part of the New Hampshire coalition. Instead, it's driven by the "Live Free or Die" ethos captured in Kurk's floor speech, she said.

"(This) is one of the least religious states in the country. If this were happening in Texas or if this were happening in Georgia, I think we would have a very different mix," she said. "I'm a Christian, and I don't like Real ID for a hundred reasons, and that's one of them."



Albrecht, who lives in Nashua, has gained international media attention as the founder of Consumers Against Supermarket Privacy Invasion and Numbering (CASPIAN, of which NH CASPIAN is an offshoot). She is working on a doctorate at Harvard and is the author of *Spychips: How Major Corporations and Government Plan to Track Your Every Move with RFID*. She repackaged the book for the Christian marketplace as *The Sychips Threat*.

Baxter has obtained 10,000 signatures from fellow believers who vowed never to vote for a congressman who supports Real ID, Albrecht said. He wants to gather 100,000, she said.

The speech

If you missed Kurk's "What price liberty?" speech, you can watch the video at [NH.gov](http://NH.gov), to say nothing of the websites that have picked it up. Or you can read "The Courage of their Convictions," a 1,500-word account of what happened written by Joel Winters for the [nhcaspian.org](http://nhcaspian.org) site. The narrative begins, "It was a quiet day in March . . ."

Winters hails Rep. Crow Dickinson of Center Conway as the dutiful constitutional defender who pulled the bill off the consent calendar and opened the floor to debate, setting the stage for Kurk. "Now a champion stepped forward," he wrote.

Winters quotes Kurk at length, interspersed with details like "his voice rose" and "as his words died away, applause thundered through the chamber."

Kurk had not seen the account before the Monitor read it to him. "It was a dark and stormy night," the 10-term legislator said, listening along to the tale. Kurk said he would save it for his children so they could remind future generations "of their forebear's heroism."

But Kurk doesn't consider himself a hero: "I have a sense of doing what every representative does, and that is speaking as persuasively as he can to the House to try to persuade them that the vision for a better New Hampshire that he has is a vision they should share."

Tepid support

On his Thursday visit to Concord, former vice presidential nominee John Edwards offered less than wholehearted support for the state's first-in-the-nation primary.

He said the state should play a key role in the nominating because "you can't buy New Hampshire." But he also said he supports having more diverse states play an earlier role, and he reserved judgment on plans being weighed by the Democratic National Committee to insert states between the Iowa caucuses and the New Hampshire primary.

State Sen. Lou D'Allesandro, who served as chairman of the Edwards campaign during the last primary, interpreted it as a message of support.

"He thinks we should be No. 1," he said. "He supports our primary, and that statement indicates that. (But) we'll hopefully get him to be stronger for the New Hampshire primary."

The Manchester Democrat, who is courted by presidential aspirants every primary cycle, said he thought Edwards would be a great candidate in 2008 should he choose to run again.

"I'm looking for a winner in 2008, because we need a Democrat, badly," he said.

But D'Allesandro's main focus right now is on protecting the primary, not picking a candidate: "It's worked well for 50 years. If it ain't broke, don't fix it."

Bitter fruit

Sen. Robert Boyce, an Alton Republican, was the only senator Thursday to vote against making the pumpkin the state fruit. He had no soft spot in his heart for the elementary-school students from Harrisville who proposed the idea and championed the bill through both houses of the Legislature.

The children received a warm reception from the Senate Banks and Insurance Committee earlier this month. They were invited to sit in the Senate chamber when their bill came up last week. Some commended the students for learning the legislative process and becoming engaged citizens. The governor promised to come to Harrisville to sign the bill.

But Boyce told the kids he thought they'd been spending too much time at the State House and that the senators and the students had better things to do. Besides, Boyce said, the strawberry would make a better state fruit.

That morning, Boyce also voted down allocating money for kindergarten construction and school breakfasts. He was the sole dissenter on a bill regulating gas pipe fitters. The parents of a woman killed in a gas explosion were in the chamber advocating for it.

Boyce was unmoved, if not entirely pessimistic.

"I am trying to find something in this calendar I can vote yes on," he told the Senate.

The son also rises

Time magazine named Sen. John Sununu as one of five "Up-and-Comers" in the U.S. Senate, along with Illinois Democrat Barack Obama, South Carolina Republican Lindsey Graham, New York Democrat Hillary Clinton and Arkansas Democrat Mark Pryor.

"Only 41 years old, the New Hampshire Republican is the youngest member of the Senate, but that hasn't limited his reach," the magazine said, citing Sununu's fiscal-conservative credentials and the important roles he played on lobbying-reform legislation and on securing changes to the Patriot Act before its renewal.

If you missed it, Sununu also earned a compliment from colleague John McCain when the Arizona senator visited Concord earlier this month. "The smartest person in the United States Senate, and he knows it, is John Sununu," said McCain. "Thank God he had his mother's temperament."

McCain added: "I can't tell you what a bright star John Sununu is." He called Sununu "the next generation of leadership" in the Senate.

A new era

Speaking of Sununu, his father, John H., ushered state government into the digital age as governor two decades ago. But the state's computer system for processing the budget and finances hasn't changed much since then, said Don Hill, commissioner of the Department of Administrative Services.

Hill spent the last four years researching and developing plans for a new system, securing money from the Legislature and soliciting vendors. Last week, the Executive Council approved contracts totaling \$20.6 million to purchase, install, implement and troubleshoot a comprehensive software suite known as an enterprise resource planning system.

The software will cover accounting, budgeting, payroll and purchasing, among other services, and it will bring a range of benefits. It will let the state issue the preferred electronic payments to vendors instead of New Hampshire's current paper checks, and it will allow state officials to close the books at the end of each fiscal year in days instead of months. It will provide powerful models to the governor and lawmakers for planning future budgets.

The public will see considerable changes. Instead of having to mail resumes to apply for state jobs or fill out paperwork for various licenses or board certifications, those processes will all be available online, Hill said. "You're really talking about redefining the way the state does business," he said.

Lawson Software of Minnesota received a 10-year, \$7.5 million contract for the software licenses, maintenance and support. CIBER Inc. of Colorado partnered with Lawson and received a three-year, \$13.1 million contract to implement the system.

The implementation could take 18 months to two years. In addition to the CIBER support, the state will hire its own project manager to coordinate the effort, Hill said.

(Staff writer Chelsea Conaboy contributed to this column.)

----- End of article

ERIC MOSKOWITZ

Monitor staff

## **Amish-Mennonite vs. Real ID**

<http://www.firstamendmentcenter.org/news.aspx?id=11824>

### **Amish-Mennonites face dilemma of faith vs. national security**

By The Associated Press

08.17.03

LIBERTY, Ky. — From the swing on his Kentucky homestead's front porch, Lester Beachy exchanges waves with a family from his church as they return home in their van.

Like people in other rural farming communities, people here rely on their cars and trucks for almost all their transportation needs, whether that means shopping or worshipping. But for Beachy, a bishop in an Amish-Mennonite congregation, and others in his religious community of about 200 people statewide, driving has created a new problem.

Their faith allows them to get behind the wheel, but not to sit for a driver's license photo as state law requires. Members of Beachy's enclave — one of at least three in the state — must now decide whether to bow to the demands of national security and keep driving or stand firm for a religious principle.

"It would open the door to what we consider unscriptural," Beachy said. "I can see the state's concern, but I am not convinced that the state granting us an exemption on a religious basis would endanger the situation."

State law has for years required Kentucky motor vehicle licenses to bear the owner's photo. Some circuit court clerks, however, have quietly and unofficially exempted people who had religious objections.

Following the terrorist attacks of Sept. 11, 2001, state officials have cracked down. For the sake of homeland security, state Transportation Cabinet officials ordered clerks not to issue licenses without photos.

Dealing with a similar issue in June, a Florida judge said a Muslim woman could not wear a veil in her driver's license photo, agreeing with state authorities that the practice could help terrorists conceal their identities. Sultaana Freeman said her faith required her to keep her face and head covered out of modesty. 'If I had to (get a photo), I would'

For many Amish-Mennonites, photos are a symbol of self-admiration and pride, contrary to their beliefs and way of life. Taking a picture is tantamount to creating a graven image — a sin in their faith.

Cora Beachy, Lester Beachy's 22-year-old niece, says that relatives in her extended family have upset her by covertly snapping her picture.

Her driver's license, which expires in March 2006, has a blue box which reads "valid without photo." However, she realizes the growing possibility the state may one day force her to break her religious convictions.

"I really don't care to have a picture," she said. But she also knows her family needs her help running their cattle farm 60 miles south of Lexington, and that includes running errands in that family's 1989 Dodge.

"If I had to (get a photo), I would," she said. "I guess I would just accept it."

People shouldn't have to compromise their religious convictions to qualify for state benefits, said John Whitehead, president of the Rutherford Institute, a religious-freedom organization based in Charlottesville, Va.

"You have to protect these people or they get wiped out," Whitehead said. "And they shouldn't have to violate their beliefs to get a driver's license."

Within the larger Mennonite church, Amish-Mennonites are more modern than old-order Amish who ride in buggies and don't use electricity, said Al Keim, director of the Valley Brethren Mennonite Heritage Center in Virginia. Nevertheless, their convictions are strong, he said.

"They take very seriously the biblical injunction that they are not to make any images of themselves," said Keim, who grew up Amish.

John Miller, 29, an Adair County Amish-Mennonite, works as a carpenter. He said he doesn't judge those who take pictures. Likewise, he said, he wants to make that decision for himself.

Miller's license doesn't expire until 2007. Without a change in state law before then, Miller said he's not sure what he'll do.

"That's one thing I would like to avoid," Miller said.

Higher authority

Rather than submit to pressures from the religious majority, Joseph Borntreger is asking the state to allow his community an exception.

"We feel we are obligated to submit to the authority and to the laws of the land, providing it does not overstep biblical principle," said Borntreger, a bishop of Hickory Amish-Mennonite Church in Graves County, in western Kentucky. "But in that event — which we feel this is something that does — then we feel our calling is higher to God."

Borntreger has enlisted the help of state Rep. Fred Nesler in trying to change the law. Nesler said he planned to introduce legislation next year that, if enacted, would allow a fingerprint or Social Security number instead of a photo on the license.

To guard against impostors posing as Amish-Mennonites, the state could require some form of affidavit, he said.

"With that being a strong religious belief they have, we ought to be able to find a way to allow them to get a driver's license without their photo," Nesler said. At least 10 states allow for some photographic exception, according to the National Conference of State Legislatures.

But state Rep. Mike Weaver says he opposes the idea. A driver's license is a privilege, and everyone should follow the same set of rules, Weaver said. Giving an exception "opens the door" for others.

"If you live in this country, you have an obligation to help in any way you can to secure this country and to help prevent any kind of a terrorist act," Weaver said. "A little sacrifice of putting your picture on a driver's license is not too much to ask."

## The Impact of Real ID on Current State Laws

Used with permission from the American Civil Liberties Union

<http://www.realnighmare.org/resources/100/>

A review of U.S. state laws on privacy and driver's licenses shows that there is an enormous variety in the statutes that are on the books in the various states. This has two important implications. First, it is clear that many states do not have adequate protections in place to combat the type of privacy invasions that Real ID will spur, such as the ability of private businesses to grab all your data off the new, standardized "machine readable zones" that Real IDs will be required to contain.

Second, for Real ID to take effect, a lot of states that do have privacy laws and other laws governing driver's licenses will have to scrap or revise those laws. That process will often be complicated, controversial, and time-consuming, and is another of the many practical obstacles that this most impractical Act must overcome.

The following is a chart that provides an overview of the relevant state laws that will require change as a result of Real ID. It was prepared by Min-Jae Lee, Lauren Gelman and Jennifer Granick of the Cyberlaw Clinic of Stanford Law School. It provides state-by-state information based on the following five criteria:

Any mention of liberty or privacy in the state constitution. Real ID is likely to conflict with these fundamental protections.

Any controls over what type of information can be included on a driver's license. That in turn may govern what information can be contained in cards with machine-readable zones, such as bar codes, RFID chips, or magnetic strips. Where they exist, such provisions may need to be harmonized with Real ID - and where they're absent, they could allow the machine-readable zone to expand to contain an ever-growing amount of information about the cardholder.

Any privacy protections that the state currently mandates for the technology employed in the driver's license, such as digital image capture or magnetic strips. For example, some states bar inclusion of social security numbers, or data not on the face of the card, from current magnetic strips to prevent them from expanding into all-encompassing digital dossiers.

Any controls over who has access to the information contained on the physical license or in the MRZ. With a standardized national machine-readable zone, it will become easier than ever for a wide variety of people - from police officers and security guards to store clerks to bartenders - to access whatever data is on that license.

Any controls over what data can be collected from driver's licenses, where and for how long that information may be stored, and who is authorized to access that information. Where restrictions are lacking, private-sector companies, for example, will be tempted to begin compiling license data they grab into valuable databases that will be sold or traded.

As the chart demonstrates, many of the statutes crafted by individual states to protect the safety of their roads and the privacy of their citizens will be swept under the rug in favor of an unfunded mandate poised to do little to protect the nation from terrorism. The laundry list of state laws that will need to be revised in the face of the federal statute represents not only an enormously daunting feat for legislators, but also an arrogant, big government rebuke of states' rights.

Overall, it is clear that the Real ID Act's attempt to impose a rigid uniformity upon state licensing practices will have a sweeping impact on state laws protecting citizen and consumer privacy.

## The Administrative Problems REAL ID Imposes On The States

Used by permission from the American Civil Liberties Union

<http://www.realnightmare.org/about/3/>

The Real ID Act was slipped through Congress in an Iraq War/Tsunami relief supplemental bill in May 2005. Cutting off a "negotiated rulemaking" that had included the ACLU and other key stakeholders from Homeland Security to state officials as part of a process to update the nation's driver's licenses, Real ID imposes a clumsy and burdensome set of requirements on states as part of its aim to definitively turn Americans' driver's licenses into a true national identity card system.

Ultimately, Real ID changes the very nature and mission of DMVs, from agencies responsible primarily for ensuring the safe operation of vehicles on state roadways, into a wide-ranging enforcement agent of the federal government in areas from immigration rules to Social Security fraud. Given that far more Americans die on our roads every year than have ever fallen victim to terrorism, diluting and confusing the mission of our DMVs would seem to be unwise indeed.

This Act is a giant unfunded federal mandate that will create enormous initial and ongoing administrative burdens and costs for states. It will also create burdens for individual citizens including a higher cost and longer wait for licensing. And it is far from clear that these extraordinary costs will bring any benefits in preventing terrorism. Before states spend the substantial resources Real ID will require, they owe it to their citizens to seriously question the necessity and efficacy of implementing the Real ID Act.

The Department of Homeland Security (DHS) has been charged by Congress with issuing regulations spelling out the details of these and other requirements. In some cases, the administrative burdens faced by the states will depend greatly on exactly what requirements DHS decides to impose. Nevertheless, the outlines of the burdens it will impose are clear from the statute itself.

### Remaking The Card

The Real ID Act requires the inclusion of particular features on every driver's license or identity card, each of which may entail significant burdens on the states.

**Common data elements.** Real ID requires that ID's contain standard information such as full legal name, gender, address, date of birth, photograph and signature. While many of these data elements already exist on many states' IDs, any state that does not currently incorporate any of these elements will have to add them - and while it sounds simple, that may be a complicated project requiring reprogramming of multiple interlocking state databases, computer entry screens, communications protocols, and paper forms.

**Physical security features.** The Act also requires "physical security features designed to prevent tampering, counterfeiting, or duplication." Even those states that currently include physical security features of one kind or another on their licenses may well need to overhaul those features to bring them into compliance with the standards set by the forthcoming Real ID regulations.

**Machine-readable technology.** Real ID mandates "a common machine-readable technology" such as a bar code, magnetic stripe, or RFID chip that holds the information printed on the front of the ID (and possibly more) in order to allow computerized scanning of the IDs by a standard reader. This requirement will force most states to create a new physical license that contains one of these technologies. Few if any states are likely to already incorporate such a technology on their licenses that will match the standard promulgated in the DHS regulations.

**Address shielding.** Another administrative headache for the states will stem from the Act's requirement that IDs include each person's "address of principle residence." Currently, many states have chosen to shield the addresses of certain individuals, such as judges, police officers and victims of criminal harassment or stalking. The Act does not contain any measure to exempt those individuals or others like them from being forced to disclose their home address, yet states will come under enormous pressure to do so.

## New Information Technology Infrastructures

Real ID will also require many or all states to build new computer and communications systems, or rebuild existing systems. The new requirements will likely include:

**Database changes.** The requirement that ID cards include a machine-readable component will likely involve further changes to state databases. That is because in order for information to be commonly accessible, not only must the physical technology be the same, but the information must be stored in the same format.

**Interstate sharing.** Real ID requires that each state construct the ability to provide all the other states with access to the information contained in its motor vehicle database - creating, in effect, a single national distributed database operated by the states. The statute is vague on implementation of this distributed database, but it will almost certainly require fundamental and costly changes to state motor vehicle databases. ID data elements will likely have to be reconfigured so that they are displayed and stored in the same format from state to state. States will need to buy new software and hardware and convert their existing databases to the new standard. If a dedicated communications network is necessary, states may also need to build fiber optic links with other states.

**Records handling.** Some states outsource the maintenance of their records to private third parties, and may have to break existing contracts in order to bring such records in house so that they can be searchable as part of the larger national database. Others will need to engage in significant technological upgrades; some still do not employ digital technology for photo capture, for example.

**Document storage.** Real ID also requires the states to retain a digital scan of source identity documents like birth certificates for at least 10 years (or a paper copy for 7 years). That means a DMV worker must scan and store three or four source documents for each applicant. States will have to purchase, install and maintain scanners and other hardware, computer storage space, retrieval and transmission mechanisms and other software for running these systems.

**Security.** The Real ID Act requires that states ensure the physical and electronic security of identification materials. The act does not set standards for that security, but with millions of individuals' sensitive personal information - a goldmine for identity thieves - slated to be digitally scanned and stored by DMVs, and shared with counterparts across the continent through the distributed database, security will need to be tight indeed. Encryption systems, customized access control applications, firewalls, and secure physical locations for the production of cards will all be expensive and difficult to administer. As always, internal security will be one of the most difficult and burdensome - yet vital - components of this system, especially in light of the fact that numerous DMV workers around the nation have been caught engaging in identity theft or other abuses.

## Document verification

What may prove to be the most significant burden that Real ID will impose on DMVs is the requirement that states "shall verify, with the issuing agency, the issuance, validity, and completeness of each document required to be presented" to get a Real ID identity card. Such verification will be enormously time and labor intensive and may force DMVs to greatly expand their conception of their mission.

The required documents that will need to be verified include a photo identity document, proof of date of birth, proof of social security number (or proof of lack of eligibility for same), proof of address, and proof of citizenship or lawful immigration status. Each presents problems:

**Birth certificate.** The process for verifying a birth certificate, perhaps the core identity document in the United States, provides a good example of the administrative burdens that Real ID will create:

1. A DMV will need to contact the municipality that issued the license and ask them confirm that they have a certain birth certificate on file. Over 6,000 different jurisdictions issue birth certificates within the United States alone.

2. Because many of these files are not computerized, this will often require a clerk to locate the document from within paper files stretching back over many decades. This task may or may not be a priority for the local clerk, who may or may not have the resources to fulfill a stream of such requests.
3. Because birth certificates are not standardized, the DMV employee and the local clerk will likely need to somehow compare copies of the certificate in order to verify the "issuance, validity and completeness" of the document as the law requires.
4. The motor vehicle employee will then have to certify completion of this verification process.
5. In some cases, birth certificates will not be able to be verified. Over the decades, records are lost, accidentally destroyed or rendered suspect due to fraud or malfeasance. A few people are not sure where and/or when they were born. Real ID is silent on how such cases should be handled, so DMVs will need to figure out if such individuals will simply be denied identity papers, or if they can be processed in some other way consistent with the Act.
6. This process must be completed for each of the more than 190 million US license holders.

**Other IDs.** Similar burdens will exist in verifying other documents like military and other federal IDs, US and foreign passports and student IDs.

**Proof of Social Security Number.** States are required to verify that an individual has a valid social security number. The Act further requires that "In the event that a social security account number is already registered to or associated with another person . . . the State shall resolve the discrepancy and take appropriate action." What "appropriate action" entails is strikingly ambiguous.

**Proof of address.** The requirement that states verify a document "showing the person's name and address of principal residence" is also problematic. That is currently done by presenting a utility bill or other third-party document (individuals who have just moved into a state will not likely have any other proof of address). Yet utility companies have no incentive to spend money answering queries from the DMV all day. In addition, many individuals who are legally eligible for a license will not be able to meet this requirement, such as teenagers seeking their first license, college students or others living in temporary housing, or individuals who do not keep any bills in their name. States will have to figure out how to deal with such cases.

**Immigration status.** The complexity of our immigration laws rivals that of our tax code, and the variety of legal categories that allow an individual to obtain legal status in the United States is large - as are the types of documents that verify that status. This verification requirement will effectively force local motor vehicle departments to become experts in this tangled area of American law.

## Major problems

The above makes it clear that there are at least two additional major problems with the verification provisions of Real ID:

**Investigative ability.** States will in many circumstances be forced to either deny driver's licenses to a large number of their citizens (potentially stranding them without any means to obtain a federally recognized ID) or attempt to resolve verification difficulties. Persons whose birth certificates cannot be verified, whose Social Security Numbers show as being "associated with" another person, or who do not have the means to supply a proof of address, must either be denied a Real ID or somehow subject to further investigation to ascertain the legitimacy of their documents. Aside from the disturbing implications of creating a corps of government investigators probing through the backgrounds of innocent individuals, such labor-intensive investigative functions are not within the capacity or expertise of existing DMVs, and would have to be built from the ground up or outsourced to external entities most likely at significant expense.

**A major conceptual flaw.** The document-verification provisions of the act require DMVs to ask for help from other organizations throughout the US - local cities, towns, and counties, government agencies, bureaucracies, and private companies such as utilities - without giving DMVs any way to force those organizations to actually take on the burden and expense of complying with those requests. The Act provides no method for the state or federal government to compel compliance.



The predictable result will be that these organizations will drag their feet and cooperate, if at all, by devoting the fewest possible personnel and other resources to such tasks. Slow, sloppy, and inefficient results will inevitably follow.

## **Personnel**

One of the most significant new burdens on states will be the additional personnel that they will have to hire and oversee in order to perform the many new required functions described above:

**Document scanning & storage.** The requirement to scan and store applicants' source documents for 7 years will demand not only new hardware and software, but also I.T. workers to maintain this technology, new front-line employees to make up for the additional time each worker spends performing these functions, and additional managers to coordinate all of this. Other I.T. mandates such as the requirement to interconnect state databases will impose similar personnel demands.

**Document verification.** The Act's document-verification requirements promise to be the most labor-intensive part of compliance. No one really knows what it will take to comply with this mandate, whether it be more front-line DMV clerks spending hours on the phone trying to reach registrar's offices in small towns, a back-office army of investigators and document researchers, more I.T. personnel to build and run automated account-verification systems set up with a state's utilities, or all of the above.

**Appeals.** A large number of individuals will inevitably be denied driver's licenses because DMV personnel decide that their proof of legal residency or other required documents are not "in order." However, people are not going to simply give up when it comes to their driver's licenses; in most parts of the United States, one simply cannot function without a car. The fact that Real IDs will be required for a no doubt growing list of federal activities will only add to the imperative to get one. The result is that DMVs will need to deal with an avalanche of appeals by angry drivers that are likely to include not only legal challenges, but the intervention of state and federal legislators.

**Security.** Computer security is an increasingly specialized field, and the heavy security needs that come with handling and storing so many people's sensitive documents and information will require each state to buy and administer considerable additional security expertise.

**New clearance requirements.** Real ID requires that state employees who are authorized to manufacture ID cards must be subject to "appropriate security clearance requirements."

**New training requirements.** The Act also requires relevant state employees to undergo "fraudulent document recognition training programs."

## **National Identification Systems**

### **A Solution in Search of a Problem.**

<http://www.eff.org/Privacy/Surveillance/?f=nationalidsystem.html>

The EFF views impending moves towards a National ID system with alarm. Public officials, in their zeal to appear to be doing something about terrorism post 9-11, are sending us on a perilous course into a future in which every movement and transaction is subject to monitoring and surveillance. We present here our position on the issue, and online resources designed to help the reader to gain a greater acquaintance with national ID schemes, the latest of which is on the congressional agenda as H.R. 4633 (also known as the Davis-Moran Bill or the Driver's License Modernization Act of 2002). The EFF is a proud member of the National ID Coalition, a broad-based coalition of human rights advocacy organizations from both the left and the right, dedicated to stopping the national ID system.

### **We Oppose a National ID System**

Since September 11th, the nation has struggled to come up with new ideas to prevent such a catastrophe from ever recurring. Disturbingly, many old and repeatedly rejected ideas have reentered the national discourse as well. Among them is the proposed introduction of a national identification card system. EFF opposes any such scheme:

- because no compelling case has been presented for its utility or effectiveness as a crime-fighting tool,
- because of its inevitable costs (in dollars, privacy, and liberty), and
- because of its high potential for abuse, by entities in both the public and private sectors.

### **Pending Legislation**

The most recent incarnation of a national ID system is known alternatively as HR 4633, the Davis-Moran Bill (after its sponsors, Republican Tom Davis and Democrat Jim Moran, both from Virginia) or "The Driver's License Modernization Act of 2002." While the proposed legislation has gained currency due to public concerns over terrorism, it is merely proffering old wares in a new wrapper. In proposing to create a *de facto* national ID system by standardizing state motor vehicle license cards and databases, Davis-Moran rehashes an approach that has been consistently proposed and rejected by Americans throughout the years. Ironically, were a national ID system in place, nothing about the events of 9-11 would have changed. None of the terrorists used fake identification to perpetrate their crimes.

Though it differs in some interesting particulars, HR 4633 is like all other proposals for a national ID system, in that it promises to solve the most pressing problem of the hour. This year, a national ID system will fight terrorism; in calmer times, it promised to make health care affordable, borders secure, illegal immigrants tractable, or deadbeat dads traceable. As always, however, the case for a national ID system is bolstered by airy claims and little by way of proof of the efficacy of such systems. Even in the realm of theory, it's difficult to see how introducing a national ID, even one equipped, as HR 4633 proposes, with biometric identifiers and "smart" chip technology, would pose more than a nuisance to terrorists, particularly those who have yet to do anything to arouse suspicion. Nevertheless, whether a national ID system is built around a card with or without clever technology built in, it will inevitably lend itself to abuse.

### **Will a National ID system help fight crime?**

Before adopting a policy that bears serious civil rights and privacy implications, it's important to have some assurance that it addresses an actual need, and that once implemented it will work as intended. But identification systems rank low on the list of problems facing law enforcement. Though four of the September 11th hijackers legally obtained Virginia driver's licenses under a now-closed state loophole, it is unclear how a national ID would have changed matters -- only two of the nineteen hijackers were on the FBI's terrorist "watch list," and neither of these two were known to have used fake IDs. In fact, one of these watch-listed terrorists was also listed under his own name in the San Diego phone directory\*. With

hindsight, the obvious flaw was not the lack of a national ID card, but a lack of attentive police and intelligence work.

Proponents promise that a national ID system would be of assistance in tracking the movements of criminals, but to do so would require ubiquitous checking of national IDs, making the national ID card, in essence, an internal passport. To be effective as a tracking tool, a national ID system would have to subject all of us to ubiquitous checkpoints and/or to random ID checks, with police empowered to detain people based on their failure to produce identification. ID challenges would have to become commonplace, a police power that has historically been anathema to free societies. A system of ID challenge, inevitably, rests on the individual judgments of police to decide who "looks suspicious" enough to challenge for ID, opening a new avenue for racial profiling. Likewise, bureaucrats dispensing public benefits and services would also come to rely on the national ID for verification, adding to the burden on the poor and disenfranchised. These effects alone raise serious doubts about the harmlessness of a national ID system.

## **How would such a system work?**

Any national ID system must be based on four key components:

- an identity verification system
- a database
- a card
- a card verification system.

While the card is the most visible of these components, without the other components working together, the card is not especially useful. Before a card can be issued, there must be some means of assuring that the person receiving the card is who he or she claims to be. Because of this, any ID system is only as good as its ability to verify an identity in the first place. If a terrorist successfully misidentifies himself to the ID system initially, then he is a greater threat than if he had no ID at all, for now he is equipped with a domestic ID that "proves" his false identity. Since the major concern of the present proposal is foreign terrorism, and since foreign nationals' chain of identity begins and ends with their passports, it is hard to see how a national ID system can bring much improvement over existing ID systems in this most crucial first step.

Issuance of the ID is accompanied by the entry of the person's identifying information into a database. But an ID database, no matter how sophisticated, only gives basic information about the person identified: weight, height, hair and eye color, address, etc. It cannot address the focal problem in the hunt for terrorists: figuring out who the terrorists are before they commit a crime. Sorting out the vanishingly small minority of actual terrorists from the millions of ordinary "good guys" in an ID system will never be accomplished by an ID system, but rather through good police and intelligence work. If an ID database is to be used, as some advocates claim, for tracking suspected terrorists, those terrorists would still need to be identified first, and then tracked, as tracking the daily movements of over 270 million people would represent an inconceivably large undertaking.

Proponents of new national ID systems believe that adding technological features to the cards themselves will eliminate problems inherent to such systems, like fraud and forgery. History does not smile on this belief. If a card can be affordably mass-manufactured, it can also be forged. The addition of "high-tech" features--embedded "smart" chips, biometric interlocking, and linking of card data to databases--all promise to make cards less forgeable, and for a while will succeed. However, a cruel paradox of identity card systems is that the more secure a card is, the greater its value, and the greater the incentive and reward for breaking the card. Any card or device in the public's hands long enough will be cracked. The more secure the card, the more expensive it will be to roll out, and the more costly will be its eventual failure.

Finally, deriving any value from building enhanced high-tech security measures into a national ID system will require a massive card verification architecture. Putting a microchip on an ID card only improves it if there is a fair chance that a police officer, airport gate worker, or other person who should have cause to inspect the card has a machine capable of reading its advanced features. Unfortunately, federal ID mandates frequently run afoul of funding problems. Notwithstanding the expenditure of over a billion dollars on a program to update the "green card," the Immigration and Naturalization Service's new, tamper-resistant high-tech card has a fatal flaw: few at the INS have been issued the equipment needed to

read the card's high-tech features. † Building the card-verification infrastructure to make the cards work adds more to the overall cost of the system. Much of these costs would have to be picked up by police departments at the state and local level.

On a national scale, rolling out such ubiquitous technology represents a massive expense, and yet, if one or more of the card's features is invalidated by forgery, the integrity of the entire system is eroded. Given the ever-accelerating pace of technological innovation, building hundreds of millions of "smart" cards in the expectation that they will stay ahead of forgers is a reckless course, one likely to lock us into a string of costly failures.

## **Selling the Goods**

The easiest method of imposing a national ID system, of course, is not to impose one at all, but rather to modify existing ID systems. Davis-Moran follows this course, leveraging both the widespread acceptance and the pre-built infrastructure of state drivers' license and ID card offices, and authorizing some \$300 million in federal grant money to finesse the deal. Though this sum is only a fraction of most estimates of the cost of implementing a national ID, and the states may well be left making up the difference, not everyone in state government is displeased with the federal mandate. The American Association of Motor Vehicle Administrators, an association that represents the interests of motor vehicle administrators in the US and Canada, has been a vocal proponent. Also swept up in the wave of patriotic national ID fervor are CEOs Larry Ellison of Oracle and Scott McNealy of Sun Microsystems, who likewise stand to profit handsomely from the sales of the software, services, and hardware required to create such a massive information architecture.

Under Davis-Moran, drivers' licenses would include an embedded microchip possessing all information printed on the front of the card, plus reference biometric information. Additionally, the Davis-Moran bill calls for the chip to "accept data or software written to the license or card by non-governmental devices if the data transfer is authorized by the holder of the license or card." This feature appears to be a ploy to drive commercial acceptance of the national ID card and to make its use more commonplace and accepted as a ubiquitous means of electronic verification. Widespread and accepted use in commerce would also make the card more useful as a surveillance tool.

But what would constitute a cardholder's authorization to write to the card? A recent New York Times article‡ revealed that Boston area bartenders, while using a magnetic card stripe reader to "verify" their patrons' state driver's licenses are also, without patrons' knowledge or consent, collecting their personal data (including home address, sex, height, weight, and physical appearance) for marketing purposes. Does merely handing a businessman your ID card "authorize" him to sell your home address to junk mailers? And what, given such a tenuous "authorization," and the write-enabled ID card envisioned by Davis-Moran, could a merchant write to your ID card for the next reader-equipped merchant or government authority to read?

## **Function Creep**

This raises one of the great problems of national ID programs. Once implemented, programs take on lives of their own. If a system is implemented that provides a single nationwide unique numeric identifier, that system will become a prime focus for businesses, and shortly afterwards, a target of identity thieves. On its introduction, the Social Security number was intended merely to ensure workers paid into the system, and that when the need arose, they could be paid their benefits. Despite its humble origins, however, the simple, nine-digit SSN has grown to become a shadow national ID, a prerequisite for taxation and the provision of a host of government services, coopted by private database maintainers as the key to massive amounts of personal data.

Clearly, the backers of HR 4633 would like people to use the card system in commerce as well as in their dealings with the government. This would make it very difficult to maintain privacy in personal dealings, and could open up every non-cash transaction to scrutiny by the government and by private data gatherers.

## **Who Watches the Watchmen?**

Even if the system works perfectly, however, interfacing flawlessly designed, uncrackable cards through a secure reader to a database system full only of well-verified, lawful information on citizens, accessible only to properly-authorized civil authorities, one factor can never be engineered away: even a perfectly-built system is corruptible by imperfect individuals. Today, we entrust considerable amounts of personal information to our state and federal governments. Unfortunately, public officials, acting in rash patriotic zeal or for less noble motives, have time and again violated the public's trust. The solemn confidentiality surrounding census data, for instance, was abrogated to round up and imprison Japanese-American citizens during the Second World War, and income tax data has been misused time and again by politicians and IRS investigators alike.

Despite government assurances to the contrary, Lord Acton's maxim, "power corrupts" has time and again proven true. Our best hope is to lead our government not into temptation, and to reject national ID systems before they get started.

\* "The Hijackers We Let Escape" (cover story) Newsweek, 6/10/02

† <http://www.latimes.com/news/nationworld/nation/la-111901tech.story>

‡ "Welcome to the Database Lounge" New York Times: March 21, 2002

## **The REAL ID Act of 2005**

### **What are the issues?**

<http://www.pfaw.org/pfaw/general/default.aspx?oid=17853>

The REAL ID Act of 2005 (H.R. 418), which was introduced by Congressman James Sensenbrenner (R-5th WI) and signed into law by President Bush on May 11, 2005 is part of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief 2005. This law restricts redress for deportations and makes asylum claims more difficult. Not only do these measures fail to enhance security, they harm the U.S. economy and undermine our efforts to combat terrorism.

- Allows the Department of Homeland Security to waive “all legal requirements”
- Fails to improve national security
- Moves towards developing a national ID card
- Prevents asylum for victims fleeing persecution

#### **Allows the Department of Homeland Security to waive “all legal requirements”**

The REAL ID Act initially included provisions that would permit the Department of Homeland Security (DHS) Secretary to waive “all laws” that the Secretary in his or her own discretion – and without judicial review – determines would interfere with construction of barriers and roads along our nation’s borders. This includes permitting a federal official to override environmental, health and safety, civil rights, labor, and criminal laws, even freedom of information laws. However, through conference negotiations, some modifications were made. Although language was changed to permit judicial review of the DHS Secretary’s determination, the scope of DHS authority was arguably expanded by the conference agreement of waiving “all legal requirements,” not just “all laws.” Moreover, although providing for judicial review, the final version only allows for review within a 60-day window of appeal. Therefore, even though the Secretary’s action will be subject to review by a judge, this new law paints with too broad a brush.

#### **Fails to improve national security**

The REAL ID Act effectively requires all states to restrict access to drivers’ licenses by requiring them to ask applicants for proof of their lawful presence in the United States. These provisions undermine national security by pushing people into the shadows and fueling an increase in fraudulent identification documents. Accordingly, these provisions make us less safe and do not effectively prevent future terrorist attacks. Indeed, these provisions would not have prevented a single 9/11 hijacker from obtaining a driver’s license or boarding a plane. The 9/11 hijackers all entered the United States with legal documents that were obtained fraudulently. Their drivers’ licenses were issued based on what appeared to be valid forms of identification and residency. As 9/11 demonstrates, denying undocumented immigrants drivers’ licenses will not prevent future terrorists from boarding planes using passports or other valid documents.

Moreover, denying undocumented immigrants drivers’ licenses makes us less safe. Currently, there are an estimated 9 to 11 million undocumented immigrants in the United States, many of whom have to drive on U.S. roads to work, whether or not they have a driver’s license. This law causes these drivers not to participate in drivers’ education classes or drivers’ tests, to be unable to get insurance, and to be more likely to flee the scene of an accident.

#### **Moves towards developing a national ID card**

H.R. 418 also creates the specter of a national ID card. The law repeals Section 7212, recently enacted under the Intelligence Reform and Terrorism Prevention Act of 2004, which addresses the issue of national standards for drivers’ licenses and personal identification cards. Although Section 7212 sets minimum standards for federal acceptance of drivers’ licenses and personal identification cards to include certain specific information, the regulations prohibit infringement on the states’ ability to set their own criteria concerning the categories of individuals who are eligible to obtain a driver’s license or personal

identification card. H.R. 418 essentially trumps states' rights to set their own verification standards, replacing them with a single specific national standard.

Another issue of concern is the linking of states' motor vehicle databases. Forcing states not only to monitor immigration status, but also to link databases with other states raises serious privacy concerns.

The REAL ID Act forces states to make drivers' licenses expire at the same time as immigration visas, in essence forcing state Departments of Motor Vehicles to monitor immigration status and enforce federal immigration laws. This is problematic on many levels, especially since immigration law is even more complicated and complex than the tax code. The Departments of Motor Vehicles' staffs are not immigration law experts, and a lack of training and understanding undoubtedly leads to the denial of drivers' licenses to United States citizens and other lawful immigrants. Secondly, there is no uniform documentation for visas and immigration statuses, nor do they have simple expiration dates. For example, a non-immigrant who has applied for an extension of her visa is lawfully present while awaiting a decision on her application. Therefore, an immigrant can be lawfully present even though her visa has expired.

### **Prevents asylum for victims fleeing persecution**

The REAL ID Act also requires asylum applicants to prove they were persecuted on the basis of race, religion, national origin, political opinion, or social group. Asylum applicants are not required to obtain corroborating evidence of their persecution, however the burden of proof still lies with the applicant. Judges determine the credibility of individuals' claims based on the plausibility, responsiveness, candor, and consistency of individuals' statements. Further, this law bars any court, including the Supreme Court, from reviewing discretionary judgments, decisions, or actions taken by the Department of Justice or the Department of Homeland Security; district courts can only review suspected violations of the Constitution. These provisions do not enhance national security since terrorists and those who pose a threat to the security of our country are already excluded from asylum. These provisions deny asylum to people who cannot prove the motive of their persecutors or whose demeanor is inconsistent with an immigration judge's expectations.

Ultimately, the REAL ID Act makes it more difficult for immigrants to lead safe and productive lives in the United States. Its attacks on their rights and liberties further chips away at the rights and liberties of their fellow Americans. It does not make us more safe, and it comes at a great cost to millions of Americans – citizens and non-citizens alike.

Ultimately, the REAL ID Act would make it more difficult for immigrants to lead safe and productive lives in the United States. Its attacks on their rights and liberties would further chip away at the rights and liberties of their fellow Americans. It does not make us safer and comes at a great cost to millions of Americans – both citizens and non-citizens.

## Maine

(source: <http://www.mainesenate.org/mitchell/realid.htm>)

### Joint Resolution Memorializing the President of the United States and the Congress of the United States to Repeal the Real ID of 2005

. WE, your Memorialists, the Members of the One Hundred and Twenty-Third Legislature of the State of Maine now assembled, most respectfully present and petition the President of the United States and the United States Congress, as follows:

WHEREAS, the federal REAL ID Act of 2005 mandates an unfunded national driver's license on the people of Maine, and;

WHEREAS, implementation of REAL ID would cost Maine taxpayers approximately \$185 million, and;

WHEREAS, the REAL ID national database will invite theft of identity and invasion of privacy, and;

WHEREAS, REAL ID will impose inconveniences and higher taxes on Mainers with no attendant benefit such as protections from terrorism; now, therefore, be it

RESOLVED: that Maine State Legislature refuses to implement the REAL ID Act and thereby protest the treatment by Congress and the President of the states as agents of the federal government; and be it further

RESOLVED: That the Maine State Legislature implores the United States Congress to repeal the REAL ID Act of 2005; and be it further

RESOLVED: That official copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George W. Bush, President of the United States; the Honorable Secretary of Homeland Security Michael Chertoff; the Honorable John E. Baldacci, Governor of the State of Maine; Richard Cheney, President of the United States Senate; Nancy Pelosi, Speaker of the United States House of Representatives; and each member of the Maine Congressional Delegation.



# Montana

(Source: [http://www.reálnightmare.org/images/File/HB0287\(1\).pdf](http://www.reálnightmare.org/images/File/HB0287(1).pdf))

60th Legislature HB0287.02

- 1 - Authorized Print Version - HB 287

1 HOUSE BILL NO. 287

2 INTRODUCED BY B. WISEMAN, COONEY, GALLIK, LANGE, PARKER, RICE, SALES, VILLA, WILLIAMS

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT OPPOSING THE IMPLEMENTATION OF THE FEDERAL REAL ID  
5 ACT AND DIRECTING THE MONTANA DEPARTMENT OF JUSTICE NOT TO IMPLEMENT THE PROVISIONS  
6 OF THE FEDERAL ACT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

7

8 WHEREAS, in May 2005, the U.S. Congress enacted the REAL ID Act of 2005 (REAL ID Act) as part  
9 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief  
10 Act (Public Law 109-13), which was signed by President Bush on May 11, 2005, and which becomes fully  
11 effective May 11, 2008; and

12 WHEREAS, some of the requirements of the REAL ID Act are that states shall:

13 (1) issue a driver's license or state identification card in a uniform format, containing uniform information,  
14 all as prescribed by the Department of Homeland Security;

15 (2) verify the issuance, validity, and completeness of all primary documents used to issue a driver's  
16 license, such as those showing that the bearer is a U.S. citizen or a lawful alien, a lawful refugee, or a person  
17 holding a valid visa;

18 (3) provide for secure storage of all primary documents that are used to issue a federally approved  
19 driver's license or state identification card;

20 (4) provide fraudulent document recognition training to all persons engaged in issuing driver's licenses  
21 or state identification cards; and

22 (5) issue a driver's license or state identification card in a prescribed format if it is a license or card that  
23 does not meet the criteria provided for a federally approved license or identification card; and

24 WHEREAS, use of the federal minimum standards for state driver's licenses and state-issued  
25 identification cards will be necessary for any type of federally regulated activity for which an identification card  
26 must be displayed, including flying in a commercial airplane, making transactions with a federally licensed bank,  
27 entering a federal building, or making application for federally supported public assistance benefits, including  
28 Social Security; and

29 WHEREAS, some of the intended privacy requirements of the REAL ID Act, such as the use of common  
30 machine-readable technology and state maintenance of a database that can be shared with the United States  
60th Legislature HB0287.02

- 2 - Authorized Print Version - HB 287

and agencies of other states, may actually make it more likely that a federally 1 required driver's license or state  
2 identification card, or the information about the bearer on which the license or card is based, will be stolen, sold,  
3 or otherwise used for purposes that were never intended or that are criminally related than if the REAL ID Act had  
4 not been enacted; and

5 WHEREAS, these potential breaches in privacy that could result directly from compliance with the REAL  
6 ID Act may violate the right to privacy, as secured by Article II, section 10, of the Montana Constitution, of  
7 thousands of residents of Montana; and

8 WHEREAS, the American Association of Motor Vehicle Administrators, the National Governors'  
9 Association, and the National Conference of State Legislatures have estimated, in an impact analysis dated  
10 September 2006, that the cost to the states to implement the REAL ID Act will be more than \$11 billion over 5  
11 years, and the Motor Vehicle Division of the Montana Department of Justice has estimated that the  
12 implementation of the REAL ID Act will cost Montana \$2,660,000 to fully implement the Act, none of which costs  
13 are or will be paid for by the federal government; and

14 WHEREAS, for all of these reasons, the American Association of Motor Vehicle Administrators, the  
15 National Governors' Association, and the National Conference of State Legislatures, in a letter dated March 17,  
16 2005, to the majority and minority leaders of the U.S. Senate, opposed the adoption of the REAL ID Act, but the  
17 opposition of those groups, and the groups' request that Congress rely on driver's license security provisions  
18 already passed by Congress in the Intelligence Reform and Terrorism Prevention Act of 2004, was largely ignored  
19 by Congress; and

20 WHEREAS, the regulations that are to be adopted by the U.S. Department of Homeland Security to  
21 implement the requirements of the REAL ID Act have yet to be adopted and, in reality, will probably not become  
22 effective until the spring of 2007, effectively giving the states only 1 year in which to become familiar with the  
23 implementing regulations and comply with those regulations and the requirements of the REAL ID Act; and  
24 WHEREAS, the mandate to the states, through federal legislation that provides no funding for its

25 requirements, to issue what is, in effect, a national identification card appears to be an attempt to "commandeer"  
26 the political machinery of the states and to require them to be agents of the federal government, in violation of  
27 the principles of federalism contained in the 10th amendment to the U.S. Constitution, as construed by the United  
28 States Supreme Court in New York v. United States, 488 U.S. 1041 (1992), United States v. Lopez, 514 U.S. 549  
29 (1995), and Printz v. United States, 521 U.S. 898 (1997); and  
30 WHEREAS, some states, or legislative bodies in some states, such as New Hampshire and Washington,  
60th Legislature HB0287.02

- 3 - Authorized Print Version - HB 287

1 have, through legislation, opposed the implementation of the REAL ID Act.  
2 THEREFORE, the purpose of the Legislature in enacting [this act] is to refuse to implement the REAL  
3 ID Act and thereby protest the treatment by Congress and the President of the states as agents of the federal  
4 government and, by that protest, lead other state legislatures and Governors to reject the treatment by the federal  
5 government of the 50 states by the enactment of the REAL ID Act.

6

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8

9 NEW SECTION. Section 1. Legislative finding and direction to state agency not to implement  
10 REAL ID Act. (1) The legislature finds that the enactment into law by the U.S. congress of the REAL ID Act of  
11 2005, as part of Public Law 109-13, is inimical to the security and well-being of the people of Montana, will cause  
12 unneeded expense and inconvenience to those people, and was adopted by the U.S. congress in violation of the  
13 principles of federalism contained in the 10th amendment to the U.S. constitution.  
14 (2) The state of Montana will not participate in the implementation of the REAL ID Act of 2005. The  
15 department, including the motor vehicle division of the department, is directed not to implement the provisions  
16 of the REAL ID Act of 2005 and to report to the governor any attempt by agencies or agents of the U.S.  
17 department of homeland security to secure the implementation of the REAL ID Act of 2005 through the operations  
18 of that division and department.

19

20 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an  
21 integral part of Title 61, chapter 5, part 1, and the provisions of Title 61, chapter 5, part 1, apply to [section 1].

22

23 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

24 - END -

# Idaho

(Source:

[http://search.state.id.us/search97cgi/s97\\_cgi.exe?action=View&VdkVgwKey=http%3A%2F%2Fwww3%2Estate%2Eid%2Eus%2Foasis%2FHJM003%2Ehtml&doctype=raw&Collection=2007+Session+Legislation#daily](http://search.state.id.us/search97cgi/s97_cgi.exe?action=View&VdkVgwKey=http%3A%2F%2Fwww3%2Estate%2Eid%2Eus%2Foasis%2FHJM003%2Ehtml&doctype=raw&Collection=2007+Session+Legislation#daily))

HJM003.....by TRANSPORTATION AND DEFENSE  
. REAL ID ACT - Stating findings of the Legislature affirming the state's support of the United States' campaign to secure our country and urging members of Idaho's congressional delegation to support measures to repeal the federal REAL ID Act of 2005.

02/09 House intro - 1st rdg - to printing

02/12 Rpt prt - to Transp

02/15 Rpt out - rec d/p - to 2nd rdg

02/16 2nd rdg - to 3rd rdg

02/20 3rd rdg - ADOPTED - 69-0-1

AYES -- Anderson, Andrus, Barrett, Bayer, Bedke, Bell, Bilbao, Black, Block, Bock, Boe, Bolz, Brackett, Bradford, Chadderdon, Chavez, Chew, Clark, Collins, Crane, Durst, Edmunson, Eskridge, Hagedorn, Hart, Harwood, Henbest, Henderson, Jaquet, Killen, King, Kren, Labrador, Lake, LeFavour, Loertscher, Luker, Marriott, Mathews, McGeachin, Mortimer, Moyle, Nielsen, Nonini, Pasley-Stuart, Patrick, Pence, Raybould, Ring, Ringo, Ruchti, Rusche, Saylor, Schaefer, Shepherd(2), Shepherd(8), Shirley, Shively, Smith(30), Smith(24), Snodgrass, Stevenson, Thayne, Trail, Vander Woude, Wills, Wood(27), Wood(35), Mr. Speaker

NAYS -- None

Absent and excused -- Roberts

Floor Sponsor - Hart

Title apvd - To Senate

02/21 Senate intro - 1st rdg - to Transp

03/07 Rpt out - rec d/p - to 10th Ord

03/08 10th Ord - ADOPTED - 19-15-1

AYES -- Bair, Bastian, Bilyeu, Broadsword, Fulcher, Geddes, Goedde, Hammond, Heinrich, Jorgenson, Langhorst, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway

NAYS -- Andreason, Cameron, Coiner, Corder, Darrington, Davis, Gannon, Hill, Kelly, Keough, Little, Lodge, Stegner, Stennett, Werk

Absent and excused -- Burkett

Floor Sponsor - Fulcher

Title apvd - to House

03/08 To enrol

03/09 Rpt enrol - Sp signed

03/12 Pres signed

03/13 To Secretary of State

Bill Text

]]]] LEGISLATURE OF THE STATE OF IDAHO ]]]]  
Fifty-ninth Legislature First Regular Session - 2007

IN THE HOUSE OF REPRESENTATIVES

HOUSE JOINT MEMORIAL NO. 3

BY TRANSPORTATION AND DEFENSE COMMITTEE

1 A JOINT MEMORIAL  
2 TO THE PRESIDENT OF THE UNITED STATES, THE UNITED STATES ATTORNEY GENERAL, THE  
3 SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS  
4 ASSEMBLED, TO THE GOVERNOR OF IDAHO AND TO THE CONGRESSIONAL DELEGATION  
5 REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

6 We, your Memorialists, the House of Representatives and the Senate of the  
7 State of Idaho assembled in the First Regular Session of the Fifty-ninth Idaho  
8 Legislature, do hereby respectfully represent that:

9 WHEREAS, the state of Idaho recognizes the Constitution of the United  
10 States as our charter of liberty and the Bill of Rights as affirming the fun-  
11 damental and inalienable rights of Americans, including freedom of privacy and  
12 freedom from unreasonable searches; and

13 WHEREAS, Idaho has a diverse population whose contributions are vital to  
14 the state's economy, culture and civic character; and

15 WHEREAS, Idaho is proud of its tradition of protecting the civil rights  
16 and liberties of all its residents, affirming the fundamental rights of all  
17 people and providing more expansive protections than are granted by the Con-  
18 stitution of the United States; and

19 WHEREAS, the federal REAL ID Act of 2005, Public Law 109-13, creates a  
20 national identification card by mandating federal standards for state driver's  
21 licenses and identification cards and requires states to share their motor  
22 vehicle databases; and

23 WHEREAS, the REAL ID Act mandates the documents that states must require  
24 to issue driver's licenses and requires states to place uniform information on  
25 every driver's license in a standard, machine-readable format; and

26 WHEREAS, the REAL ID Act prohibits federal agencies and federally-  
27 regulated commercial aircraft from accepting a driver's license or identifica-  
28 tion card issued by a state that has not fully complied with the act; and

29 WHEREAS, the REAL ID Act places a costly, unfunded mandate on states, with  
30 initial estimates for Idaho of more than thirty-nine million dollars with on-  
31 going annual expenses of an estimated nine million three hundred thousand dol-  
32 lars and a national estimate of more than eleven billion dollars over the next  
33 five years; and

34 WHEREAS, the REAL ID Act requires the creation of a massive public sector  
35 database containing information on every American that is accessible to all  
36 motor vehicle employees and law enforcement officers nationwide and that can  
37 be used to gather and manage information on citizens. Such activities are not  
38 the business or responsibility of government; and

39 WHEREAS, the REAL ID Act enables the creation of additional massive pri-  
40 vate sector databases, combining both transactional information and driver's  
41 license information gained from scanning the machine-readable information con-  
42 tained on every driver's license; and

43 WHEREAS, these public and private databases are likely to contain numerous  
44 errors and false information, creating significant hardship for Americans

2

1 attempting to verify their identities in order to travel on commercial air-  
2 craft, open a bank account or perform any of the numerous functions required  
3 to live in the United States today; and

4 WHEREAS, the federal trade commission estimates that ten million Americans  
5 are victims of identity theft annually, and because identity thieves are  
6 increasingly targeting motor vehicle departments, the REAL ID Act will enable  
7 the crime of identity theft by making the personal information of all Ameri-  
8 cans, including date of birth and signature, accessible from tens of thousands  
9 of locations; and

10 WHEREAS, the REAL ID Act requires a driver's license to contain a person's  
11 actual home address and makes no exception for individuals in potential dan-  
12 ger, such as undercover law enforcement personnel or victims of stalking or  
13 criminal harassment; and

14 WHEREAS, the REAL ID Act contains onerous record verification and reten-  
15 tion provisions that place unreasonable burdens on the motor vehicle division  
16 and on third parties required to verify records; and

17 WHEREAS, the REAL ID Act will place enormous burdens on consumers seeking  
18 new driver's licenses, such as longer lines, increased document requests,  
19 higher costs and a waiting period; and

20 WHEREAS, the REAL ID Act will place state motor vehicle staff on the front  
21 lines of immigration enforcement by forcing state employees to determine fed-

22 eral citizenship and immigration status, excessively burdening both foreign-  
 23 born applicants and motor vehicle staff; and  
 24 WHEREAS, the REAL ID Act passed without sufficient deliberation by Con-  
 25 gress and did not receive a hearing by any congressional committee or a vote  
 26 solely on its own merits, despite opposition from more than six hundred orga-  
 27 nizations; and  
 28 WHEREAS, the REAL ID Act eliminated a process of negotiated rulemaking  
 29 initiated under the Intelligence Reform and Terrorism Prevention Act of 2004,  
 30 which had convened federal, state and local policymakers, privacy advocates  
 31 and industry experts to solve the problem of the misuse of identity documents;  
 32 and  
 33 WHEREAS, the REAL ID Act provides little security benefit and leaves iden-  
 34 tification systems open to insider fraud, counterfeit documentation and data-  
 35 base failures.  
 36 NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session  
 37 of the Fifty-ninth Idaho Legislature, the House of Representatives and the  
 38 Senate concurring therein, that we support the government of the United States  
 39 in its campaign to secure our country, while affirming the commitment of the  
 40 United States that this campaign not be waged at the expense of the essential  
 41 civil rights and liberties of the citizens of this country.  
 42 BE IT FURTHER RESOLVED that it is the policy of the state of Idaho to  
 43 oppose any portion of the REAL ID Act that violates the rights and liberties  
 44 guaranteed under the constitutions of the State of Idaho and the United  
 45 States, including the Bill of Rights.  
 46 BE IT FURTHER RESOLVED that the Idaho Legislature shall enact no legisla-  
 47 tion nor authorize an appropriation to implement the provisions of the REAL ID  
 48 Act in Idaho, unless such appropriation is used exclusively for the purpose of  
 49 undertaking a comprehensive analysis of the costs of implementing the REAL ID  
 50 Act or to mount a constitutional challenge to the act by the state Attorney  
 51 General.  
 52 BE IT FURTHER RESOLVED that the Idaho Legislature urges the Idaho congress-  
 53 sional delegation to support measures to repeal the REAL ID Act.  
 54 BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representa-  
 55 tives be, and she is hereby authorized and directed to forward a copy of this

3

1 Memorial to the President of the United States George W. Bush, the United  
 2 States Attorney General Alberto Gonzales, the President of the Senate and the  
 3 Speaker of the House of Representatives of Congress, the Governor of Idaho C.  
 4 L. Otter and the congressional delegation representing the State of Idaho in  
 5 the Congress of the United States.

Statement of Purpose / Fiscal Impact

REPRINT REPRINT REPRINT REPRINT REPRINT REPRINT

STATEMENT OF PURPOSE

RS 16946

This joint memorial is for the purpose of sending a message to Congress and to our Congressional Delegation that the people of Idaho object to the mandates of the Real ID Act of 2005 passed by Congress. The Real ID Act of 2005 is an \$11 billion unfunded mandate on the states. The Real ID Act of 2005 is a backdoor attempt to institute a national ID card as more overt attempts to create a national ID card have always failed in the past.

The Real ID Act of 2005 has serious constitutional and privacy problems. By requiring all states to issue driver's licenses to this new standard, the Federal Government is attempting to force the states to become part of a national database with 50,000 access points to sensitive data on every American Citizen. The opportunities for identify theft will multiply exponentially. Rules for implementing the Real ID Act of

2005 have not yet been promulgated by the federal government and the states are unclear as to the actual expected cost of compliance.

#### FISCAL NOTE

If Idaho were to comply with the Real ID Act of 2005 the startup costs will be in the range of \$39 million with ongoing costs of about \$9.3 million per year.

#### Contact

Name: Representative Phil Hart

Phone: 208-332-1000

Representative Liz Chavez, Representative Pete Nielsen,  
Representative Cliff Bayer, Representative Lenore Barrett,  
Representative Dick Harwood, Representative JoAn Wood,  
Representative Jim Clark  
Senator Russ Fulcher, Senator Mike Jorgenson

STATEMENT OF PURPOSE/FISCAL NOTE

HJM 3

**South Carolina**

**Final Version:** (As amended in committee & passed/adopted)

**A BILL**

TO AMEND CHAPTER 1, TITLE 56 OF THE 1976 CODE, BY ADDING SECTION 56-1-85, TO PROVIDE THAT THE STATE WILL NOT PARTICIPATE IN THE IMPLEMENTATION OF THE REAL ID ACT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 56 of the 1976 Code is amended by adding:

"Section 56-1-85. The State shall not participate in the implementation of the federal REAL ID Act."

SECTION 2. This act takes effect upon approval by the Governor.

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Originally Introduced Version as Amended to 3-27-07

**S. 449**

Introduced by Senators Martin, Verdin, Sheheen, Leventis, Bryant and Knotts

S. Printed 3/27/07--S. [SEC 3/28/07 2:25 PM]

Read the first time February 15, 2007.

**A BILL**

TO AMEND CHAPTER 1, TITLE 56 OF THE 1976 CODE, BY ADDING SECTION 56-1-85, TO PROVIDE THAT THE STATE WILL NOT PARTICIPATE IN THE IMPLEMENTATION OF THE REAL ID ACT UNTIL THE FEDERAL GOVERNMENT MAKES CERTAIN MODIFICATIONS.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. The General Assembly finds that:

(1) In May 2005, the United States Congress enacted the REAL ID Act of 2005 (REAL ID Act) as part of Public Law 109-13, a federal supplemental appropriations measure;

(2) The REAL ID Act requires states to:

(a) issue a driver's license or state identification card in a uniform format, containing uniform information, all as prescribed by the United States Department of Homeland Security;

(b) electronically verify the issuance, validity, and completeness of all primary documents used to issue a driver's license, such as those showing that the bearer is a United States citizen or a lawful alien, a lawful refugee, or a person holding a valid visa;

(c) provide for secure storage of all primary documents that are used to issue a federally approved driver's license or state identification card; and

(d) provide fraudulent document recognition training to all persons engaged in issuing driver's licenses or state identification cards;

(3) The use of the federal minimum standards for state driver's licenses and state-issued identification cards will be necessary for any type of federally regulated activity for which an identification card must be displayed, including boarding a domestic flight, opening a bank account, entering a federal building, or making application for federally supported public assistance benefits, including Social Security;

(4) The United States Department of Homeland Security has not promulgated the required regulations necessary to implement the REAL ID Act, thereby leaving states uncertain as to how they will implement the federal mandate which goes into effect May 11, 2008;

(5) A report issued in September 2006, by the National Conference of State Legislatures, the National Governors' Association, and the American Association of Motor Vehicle Administrators suggests that the new requirements of the REAL ID Act will cost states a minimum of \$11 billion over the first five years of the program, and the South Carolina Department of Motor Vehicles estimates costs for the first five years of the program at \$68 million, and despite this excessive cost there has been no federally appropriated funds to help states meet the demands of the REAL ID Act; and

(6) The same report issued in September 2006, by the National Conference of State Legislatures, the National Governors' Association, and the American Association of Motor Vehicle Administrators outlined proposals for rules that fulfill the states' need to balance safety with service.

SECTION 2. Chapter 1, Title 56 of the 1976 Code is amended by adding:

"Section 56-1-85. The State will not participate in the implementation of the REAL ID Act until:

(1) the Department of Homeland Security, through regulation, takes all practical and prudent steps to ensure that the implementation of the REAL ID Act will not compromise the privacy of any citizen or resident of the State of South Carolina;

(2) the federal government provides one hundred percent of the funding necessary for the implementation of the REAL ID Act; and

(3) the federal government, through regulation by the Department of Homeland Security, adopts the changes to the REAL ID Act as outlined in the report entitled *'The REAL ID Act: National Impact Analysis' of the National Conference of State Legislatures, the National Governor's Association and the American Association of Motor Vehicle Administrators'* published September 2006, or as amended since then."

SECTION 3. This act takes effect upon approval by the Governor.