

**HJR**

**19**

# SENATE COMMITTEE REPORT

DATE: 3/26/08

FURTHER:

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

**State Affairs Committee** considered CS FOR HOUSE JOINT RESOLUTION NO. 19(STA)

## HJR 19 OPPOSE FEDERAL ID REQUIREMENTS

Encouraging repeal of the Real ID Act of 2005.

and recommends:

- be replaced with  SCS or  CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous  SCS or  CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt \_\_\_\_\_ Letter of Intent
- further referral to \_\_\_\_\_ Committee

**SENATE BILL:**  
 Same Title  
 New Title

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**HOUSE BILL:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_




**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
(H) STA	3/11/08			✓	

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	NO REG	AMEND
	French	X			
	Spence	X			
CHAIR: 	McQuinn	✓			

# ALASKA STATE HOUSE OF REPRESENTATIVES

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## REPRESENTATIVE JOHN COGHILL

### SPONSOR STATEMENT

#### HJR 19 Opposing REAL ID Act

Real ID is an attempt to protect our country from terrorism that is full of unintended consequences. First of all, this federal law is in direct conflict with the Tenth Amendment to the U.S. Constitution. Secondly, the federal government is holding individual Alaskans accountable for the actions of state government. Thirdly, the Real ID Act threatens personal liberties without any evidence of making our citizens and our borders any more protected from terrorism.

The State of Alaska is one of 45 states that obtained the first extension of implementation, but this is only a temporary reprieve from the problem. Without the repeal of the REAL ID Act or a further extension, federal agencies will not accept Alaskan driver's licenses or identification cards for official purposes as of December 31, 2009.

The Department of Administration recently estimated front end costs for interfacing the REAL ID database with DMV would cost at least \$2 million. Additional funds would be required to interface with the Bureau of Vital Statistics and the Department of Public Safety. Annual operating costs would also have to be funded and the Administration has no estimate of that cost.

HJR 19 is a message to Congress that the Alaska Legislature objects to the federal government taking away states rights and individual rights as a method of imposing a system that will ultimately not make the United States any safer. The resolution asks Congress to repeal the Real ID Act of 2005.

# The REAL ID Rebellion

The regulations have finally arrived. What's next for states?

BY MATT SUNDEEN

States first began requiring drivers to obtain licenses to operate motor vehicles in 1908. It's an understatement to say there will be no quiet celebration of the driver's license centennial anniversary. May 11, 2008, is the deadline for state compliance with new driver's license standards and procedures in the federal REAL ID Act. If 2007 is any indication, get ready for some driver's license related fireworks in legislatures this year.

States issue approximately 250 million licenses to drivers in the United States. The only official purpose of a driver's license is to prove the ability to operate a motor vehicle. Because it is so common, however, the driver's license is frequently required or offered to prove a person's identity. In the 99-year history of the driver's license, states have been responsible for deciding almost every aspect related to issuing licenses for noncommercial drivers.

The REAL ID Act, which Congress passed with no debate as part of a supplemental war spending and tsunami relief bill in 2005, dramatically alters the established driver's license framework. The act contains new card design requirements, minimum issuance standards, verification requirements for source documents used to prove identification, immigration standards, provisions related to data storage and sharing, and security and fraud prevention criteria.

After the May 11, 2008, deadline, the federal government will not accept a driver's license or identification card from a noncompliant state for an official federal purpose—which includes boarding a commercial aircraft and entering certain federal facilities.

## FEDS TOUT SECURITY BENEFIT

Federal officials view REAL ID as necessary for security. "The American public's desire for greater identity protection is undeniable," says U.S. Department of Homeland Security Secretary Michael Chertoff.

"The 9/11 hijackers obtained 30 different driver's licenses and IDs, and used 364 aliases. For an extra \$8 per license, REAL ID will give law enforcement and security officials a powerful advantage against falsified documents, and it will bring some peace of mind to citizens wanting to protect their identity from theft by a criminal or illegal alien," Chertoff says.

It is safe to say that so far not everyone agrees. REAL ID's enactment was roughly analogous to the federal government shoving its figurative hand deep into a hornet's nest. Few federal acts in recent memory have elicited such strong state reaction. Although responses have not been

uniform, a lot of state REAL ID legislation was negative.

"It smells like a can of worms and it should be rethought," says Oklahoma Senator Constance Johnson, who sponsored legislation that prohibits Oklahoma agencies from complying with REAL ID. "Just the way it passed caused all the problems," she says. "We need to take more time."

## MANY STATE CONCERNS

Many critics see REAL ID as a costly burden on states. A joint report issued by the National Conference of State Legislatures, the National Governors Association and the American Association of Motor Vehicle Administrators estimated that the total REAL ID costs for states would start at \$11 billion over five years. So far, the administration has never requested funds to cover state costs, and Congress has appropriated only \$90 million for implementation.

A more significant barrier for REAL ID may be perceptions about its effect on privacy. Many see the database links it requires as essentially creating a national identification card. "My biggest concern was privacy," says Senator Johnson. "But even if you address privacy, you still have cost issues."

Opponents fear that REAL ID will be costly yet ultimately ineffective. The U.S. Secret Service estimates that 16,000 different entities in the United States issue birth certificates. The electronic systems needed to verify the authenticity of those and thousands of other documents used to prove identification at the point of licensure are not yet operational, nor are many of the other electronic database systems contemplated by the law. Moreover, the 1995 bombing in Oklahoma City proved that legitimate driver's license holders can still be terrorists.

## STATES REBEL

In 2007, 44 states considered approximately 145 bills or resolutions related to REAL ID. Legislation passed in 25. Twenty-one states passed measures that either prohibited state compliance with the act or urged Congress to amend or repeal it. Maine, Montana, New Hampshire, Oklahoma, South Carolina and Washington passed laws that strictly prohibit state agencies from complying. Idaho appropriated \$0 for its implementation in 2008, and legislative chambers in 15 states passed resolutions or memorials that urged Congress to amend or repeal REAL ID, or indicated the state's intent to not comply.



SENATOR  
CONNIE JOHNSON  
OKLAHOMA

Matt Sundeen is one of NCSL's transportation experts.

Georgia lawmakers authorized the governor to delay implementation unless certain conditions are met.

State reaction to REAL ID was so strong that U.S. Department of Homeland Security (DHS) officials appealed directly to state lawmakers to ease up until final regulations were released. At NCSL's Fall Forum meeting in November 2007, the U.S. DHS Assistant Secretary for Policy Development, Richard Barth, pleaded with attendees for patience. "Hold your fire until you can actually read the darn thing," said Barth. "We took you seriously. We respected your views. We have acted in good faith with you. Please ride with us a little longer."

#### DELAYS FRUSTRATE STATES

On Jan. 11, 2008, DHS released the long-awaited final regulations for implementing REAL ID, giving state lawmakers less than 120 days to react before the May 2008 compliance deadline. According to DHS, the final regulations incorporated many of the recommendations made by states. The new rules allow states to apply for compliance extensions and lengthen the re-enrollment period for some drivers to as far off as 2017. DHS officials also assert that the regulations will reduce the cost burden to states to less than \$4 billion and provide secure data sharing mechanisms to protect drivers' privacy.

Despite these assurances, the new rules seem unlikely to quell negative opinions about REAL ID in states that have already opted out. "We would need to look at the regulations, but there is very little they could do to make the act palatable to us," says Maine's Senate Majority Leader Libby Mitchell. "Funding would be nice, but money alone won't resolve the issues around REAL ID."

Washington Senator Mary Margaret Haugen, chair of the Transportation Committee, worries that despite REAL ID's potentially enormous implications, the federal government has given states no time to act.

"It's so frustrating for states," says Haugen. "This is a huge mandate on us with big costs and significant privacy concerns. But the federal government has not worked with the states on this issue. They don't seem to understand that we're not in session all the time like Congress. Our session lasts only 60 days. It's totally unrealistic to expect any changes."

#### STATES' RESPONSES UNCERTAIN

It is less clear how final regulations will affect deliberations in states that

have not yet specifically prohibited compliance. Although much state reaction was negative, it has not been uniformly so. Last year, Indiana and Nevada both enacted laws intended to bring the state into compliance with federal standards. Nevada, Tennessee and Virginia appropriated money for REAL ID implementation, and Ohio lawmakers directed the Department of Public Safety to request an extension. Lawmakers in other states considered proposals



SENATOR  
LIBBY MITCHELL  
MAINE



SENATOR  
MARY  
MARGARET  
HAUGEN  
WASHINGTON

## FINAL RULES: REAL FLEXIBILITY OR REAL MANDATE?

The REAL ID Act of 2005 sailed through Congress and landed on the president's desk as part of the "Emergency Supplemental Appropriation for Defense, the Global War on Terror, and Tsunami Relief, 2005." It was signed into law on May 11, 2005. Nearly three years later, on Jan. 11, 2008, the U.S. Department of Homeland Security (DHS) finally issued the regulations to guide states' implementation of the act. The act takes effect May 1, 2008.

The final rules offer much more flexibility for states than was originally proposed in the draft regulations. Based on this flexibility, DHS has re-estimated the 10-year costs to states at just under \$4 billion, down \$10 billion from DHS's original \$14 billion. In September 2006, NCSL, the National Governors Association and the American Association of Motor Vehicle Administrators estimated the five-year cost of REAL ID to be \$11 billion.

The final rules still require states to ensure that all applicants are legally in the country and to verify applicants' documents using electronic databases, some of which are still under development. States are required to store copies of these documents and to make their department of motor vehicle (DMV) databases available to all other states. States must conduct background checks on certain DMV staff and secure the facilities where licenses are produced and where information and materials are stored.

So then, what flexibility produces a \$10 billion cost savings? The new rules are much less prescriptive, allowing states to develop their own security plans and to self-certify compliance with most of the requirements. Gone are the rigid prescriptions for the security features of the identification card itself, replaced by several options from which states can choose. And, as states ease into issuing REAL IDs, they will now be able to do so over six years, starting with people born after 1964.

States can request an extension of the May 11, 2008, deadline, which will be valid through Dec. 31, 2009. If a state takes steps toward complying, a second extension can be requested, which will run through May 10, 2011. During these periods, licenses from states with extensions will be accepted by DHS for official federal purposes such as passing through airport security and entering federal buildings and nuclear power plants. States must begin issuing REAL IDs on May 11, 2011, and are expected to have enrolled everyone born after 1964 by 2014, completing the entire enrollment process by Dec. 1, 2017.

Cost remains a major concern. The administration and the Department of Homeland Security have never requested funding for states' costs in the president's budgets. Congress has appropriated only \$90 million since FY 2006, leaving states to absorb the difference or pass on the cost to residents. REAL ID represents "federal standards, and they deserve federal dollars," says William Pound, NCSL's executive director.

Find out more about REAL ID and NCSL's analysis of the final rules at [www.ncsl.org/realid](http://www.ncsl.org/realid).

—Jeremy Meadows, NCSL

# WE CAN HELP YOU COLLABORATE!

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The recently unveiled NCSL State-Tribal Institute provides new opportunities for tribal members to collaborate in a new forum with their state legislative counterparts.

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- Research, policy and technical support; and
- Outreach to key stakeholders.



### EMAIL

To get help or more information from the NCSL State-Tribal Institute, email [State-Tribal-info@ncsl.org](mailto:State-Tribal-info@ncsl.org)



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to develop multi-tiered licensing systems or even subsidize the use of alternative forms of identification, such as the U.S. passport, which the final regulations note will serve the same purpose as a REAL ID. Altogether, legislators in 25 states proposed compliance legislation or alternative REAL ID bills in 2007.

Many state lawmakers have waited for the final federal regulations before deciding an appropriate state response to the law. Federal delays in issuing the new rules, however, mean that some legislatures have no way to react officially to REAL ID before the May 11 deadline. This year, only 43 legislatures meet before May, and sessions in many of them are significantly limited in length or scope.

In some states, legislative activity might not be needed to move toward compliance. Some motor vehicle administrators are already acting to comply with REAL ID. But opinions differ about the scope of agencies' administrative authority, and it's difficult to generalize whether all states can comply without legislative approval.

### BEYOND REAL ID

It is important to note that state concern about the driver's license has not been limited to REAL ID. Another DHS program, the Western Hemisphere Travel Initiative (WHTI), allows states to develop enhanced driver's licenses (EDLs) that permit holders to travel across certain international borders without a passport. So far Arizona, Vermont and Washington have announced intent to issue such documents.

Some states are also trying their own approaches to driver's license security. "It's not a federal job," says Arizona Representative Russell Pearce, chair of the House Appropriations Committee.

"It's the states' responsibility. But states need to recognize the threat to national security of an unsecured driver's license. We have an inherent



REPRESENTATIVE  
RUSSELL PEARCE  
ARIZONA

responsibility to make sure the driver's license is secure." Pearce is sponsoring legislation that will prevent Arizona agencies from recognizing a driver's license from any state that does not require proof of lawful presence during the application process.

The only post-REAL ID regulation certainty is that in 2008, the state-issued driver's license for noncommercial drivers will be scrutinized more closely than at any other moment in its history. As of mid-January, legislators in eight states had already pre-filed or introduced bills related to REAL ID or driver's license security. That number will surely climb as more legislatures come into session and more lawmakers distill the contents on the REAL ID regulations.

"I am for a secure ID," says Arizona's Representative Pearce. "We just need good processes to guarantee it." ■

➔ CHECK OUT the latest REAL ID news through [www.ncsl.org/magazine](http://www.ncsl.org/magazine).

## REAL ID, real problem

*(Published: March 8, 2007)*

The federal Department of Homeland Security wants states to adopt a uniform driver's license and identification card that would require stricter documentation, cost billions of dollars, take us a long way to a national ID card, and do little to make the homeland more secure.

It's called REAL ID.

Alaska's Division of Motor Vehicles already has adopted new regulations requiring stricter documentation for newly arrived residents applying for driver's licenses. No longer does another state's license stand for proof of identification and legal status. New Alaskans must have documents proving their legal name, birth date, address and Social Security number, and a secondary proof of identification.

Privacy advocates have sued the state, arguing it has no authority to implement the regulations without legislative approval. Lawmakers could get that chance with House Bill 3, working its way through the process.

We hope the suit succeeds. Even better, we hope the Legislature makes the suit moot by turning down REAL ID and its stricter license requirements, a bad idea that caught a ride into law on a 2005 appropriations bill for the war in Iraq and tsunami relief. Rejected by Congress in 2004, REAL ID passed in the budget bill without a single hearing. That's probably the only way it could have passed.

What's wrong with the legislation? Where do we start?

- Americans are leery of a national ID card. You don't have to suffer paranoia about unmarked helicopters to oppose a national ID or its like, especially one that could carry vital information about any of us without privacy protections, a card that could subject us to increasing government control of travel, business and freedom. REAL ID provisions allow Homeland Security to add more elements to the card later -- such as fingerprints and retinal scans.
- Estimates for program costs -- an unfunded federal mandate -- begin at about \$10.7 billion and range to \$22.4 billion, according to the American Civil Liberties Union and Department of Homeland Security. The states would pick up the tab. That means Alaskans would pick up their share.
- States would be required to verify the authenticity of documents presented as proof of identification, adding to delays and costs.
- No privacy provisions are included. For example, one of the requirements that Homeland Security could add to new driver's licenses is a radio frequency identification chip embedded in the license. The State Department already has these in passports, but has adopted privacy protections -- the chip can't be scanned when the passport is closed. REAL ID requires no such safeguards, nor reimbursement for states that try to provide them.

It is not clear how much safer from terrorism REAL ID would make us. It is clear that it would be expensive, add to bureaucracy, increase the danger of identify theft from an easily accessible database and invite government abuse.

Maine's legislature voted overwhelmingly in January to reject REAL ID, and there's a lively debate under way in other states. Even the Department of Homeland Security has admitted the measure is flawed and has delayed implementation from May 2008 to the end of 2009.

That should be time enough to either fix it or kill it.

Meanwhile, there's no need for Alaska to take any steps toward compliance with REAL ID. Increased need for documentation will put a burden on thousands of law-abiding citizens, while giving no guarantee of catching either terrorists or illegal immigrants.

**BOTTOM LINE:** Until REAL ID enhances security and privacy and liberty, Alaska should say no.

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### Long interim

Two years to select permanent UAA chancellor is too much

University of Alaska President Mark Hamilton made a smart choice last week when he picked Fran Ulmer as interim chancellor for the Anchorage campus. Not so smart was his decision to let her interim appointment drag on for two years. There's plenty of time before the start of the 2008 school year to pick a permanent chancellor for UAA -- and good reason to move more quickly than President Hamilton intends.

President Hamilton's timeline leaves a critically important post unsettled for too long. The prolonged uncertainty is not healthy for Chancellor Ulmer, the university she is supposed to lead, or the community.

It will be difficult for her to build the relationships and alliances UAA needs, both inside the university and in the outside world, when no one is sure how long she'll be around. Those inclined to resist her initiatives can wait for a permanent chancellor.

Two years is simply too long to leave the state's largest campus in caretaker status.

In addition, Chancellor Ulmer's two-year appointment will end within a few months of when President Hamilton's current contract expires. If he were to leave then, the University of Alaska would be picking a president and a chancellor for its largest campus at the same time. That much turnover in leadership at the same time isn't a good thing.

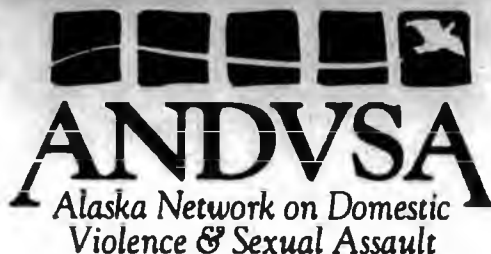
We expect Chancellor Ulmer will do an excellent job and be a front-runner for permanent appointment. One full academic year is enough time to see how well she does, and enough time to see if there are others who might do better.

**BOTTOM LINE:** One year should be plenty to pick a permanent UAA chancellor.

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**April 25, 2007**

The Honorable Representative Coghill  
Alaska State Capitol Room 214  
Alaska House of Representatives

**RE: Relating to opposition to the Real ID Act of 2005, Support of HJR 19 Repeal of REAL ID Act**

The Alaska Network on Domestic Violence & Sexual Assault (ANDVSA) strongly supports the repeal of REAL ID. The proposed REAL ID regulations will severely impact thousands of women and children facing threats from domestic violence and stalking. On behalf of the thousands of women and children in our state who flee violent homes each year, ANDVSA supports the Alaska Legislature and HJR 19 urging Congress to repeal REAL ID

Victims of Domestic Violence encounter a whole range of barriers and obstacles when fleeing for their lives. A nationally standardized drivers licensing system will create a vast national database linking all of the ID records together. Many victims are trying desperately to remain safe, therefore their confidentiality is paramount. Any possible breach or cross-referencing capability in a database allows a perpetrator to find the victims' address. If a victim of domestic abuse or stalking is forced to disclose her residence in order to get a federally approved driver's license, she risks the possibility that she and her children will be tracked down by their abuser. However, if she decides not to disclose her residential address, she will be denied a REAL ID. Without government issued identification, she will not be able to board an airplane, obtain a U.S. passport, or use a post office box. For domestic violence victims and their children, who may be forced to flee an abusive situation with short notice, such restrictions can be the difference between the freedom to start a new life and continued danger in a violent home.

REAL ID poses a danger for victims of violence in the following ways:

1. Requires that a residential address appear on the REAL ID
2. Exposes confidential victim addresses in easily accessible Department of Motor Vehicles (DMV) databases
3. Gives away confidential addresses in each card's unencrypted barcode
4. Discloses a person's full name history (including all name changes) in both the DMV database and each card's barcode
5. Forces victims with sealed court documents to violate that confidentiality to receive a REAL ID

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Instead, the regulations say that states *must* add the changed name to the database and *cannot* delete previous names.

This means that a woman who legally changes her name to escape an abuser can be traced across the country by her previous name through any state's Department of Motor Vehicles database or by anyone who has access to the barcode on the physical card. This exposure of confidential information will allow abusers to get around all court ordered and government protections for victims of domestic violence and stalking.

Domestic violence victims change their names for their safety and the safety of their children. A court seals records when it decides that this protection is essential to a victim's security. Doing so completely separates their previous names from their new legal names, making it more difficult for their abusers to hunt them down.

**6. Document standards do not take into account the destruction or confiscation of documents by abusers.**

Abusers will often destroy or withhold access to their victims' important documents such as birth certificates, driver's licenses, and immigration papers in order to force victims to stay with them or to prevent victims from taking action regarding the abuse.

The limited list of documents in the Proposed Rule will reduce many victims' abilities to obtain REAL ID because their abusers have withheld or destroyed the documents. As a result, victims will be denied the chance to travel, get a driver's license, or even enter federal buildings to seek aid or prosecute their abusers. Without alternatives for victims fleeing domestic violence, these regulations force victims to remain in abusive environments and reinforce the ability of abusers to control their victims through possession of vital documents.

**7. The Proposed Rule places an additional burden on abused immigrant women and children who must renew their REAL ID every year, increasing abuser control.**

In the Proposed Rule for the implementation of REAL ID, many abused immigrant women and children would be required to renew their REAL ID every year. In addition to all of the difficulties encountered in producing documents from this narrow list to acquire a REAL ID the first time, abusers will have additional leverage to use against their victims if they must produce these documents every year to keep their REAL ID valid. The documents become even more valuable and abusers then hold even more power over their victims by threatening to destroy or withhold documents each year.

**8. REAL ID will be denied to immigrant women who are here legally on their spouses' or parents' visas.**

The narrow list of documents permitted to verify identity in applying for a REAL ID card would deny spouses and children, here legally on the main workers' visas, the ability to drive a car, travel, or enter federal buildings. Family members granted derivative visas are included under the main visa holder's documents, but do not hold any documents of their own appearing on the REAL ID document list.

This requirement would make spouses and children virtual prisoners in their own homes, unable to do anything requiring federal identification. This problem is compounded if a derivative family member tries

# STATE OF ALASKA

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## REAL ID White Paper 2/21/2008

### History/Background

Congress passed REAL ID in 2005, requiring people boarding airplanes and entering federal buildings to use an ID that meets specific security and authentication standards. For states, that means issuing REAL ID-compliant drivers' licenses and ID cards -- or residents will need a passport to board planes. Homeland Security last month released its final regulations.

### Current Situation

Federal agencies cannot accept non-REAL ID drivers' licenses or ID cards for official purposes as of May 11, 2008, unless a state has obtained an extension. Alaska is one of 45 states that have obtained the extension; there were no prerequisites to receiving this first extension. That first extension will expire Dec. 31, 2009, unless a state, by Oct. 11, 2009, asks Homeland Security for a second extension, certifying it has achieved 18 specific benchmarks. This extension would give the state until May 10, 2011, to comply with all of REAL ID. Allowing for a phase-in of REAL ID, states have until Dec. 1, 2014, to issue new licenses for everyone 50 years old and younger, and until Dec. 1, 2017, for residents over 50 years old.

### Challenges

Before issuing or renewing a license or ID card, DMV will be required to electronically verify each applicant's documents. The law requires verification of Social Security numbers with the Social Security Administration, birth certificates through the Electronic Verification of Vital Events system, immigration documents through another system, and so on. Applicants for new licenses and ID cards will need to provide the same proof of identity and legal residency as is currently required at DMV, such as a U.S. passport or certified copy of a birth certificate. The change under REAL ID -- in addition to the electronic verification -- is that the verification requirement also will be imposed on Alaskans renewing their licenses for the first time under REAL ID. In addition to the paperwork hassles and expense, opponents of REAL ID say it is an invasion of privacy and the start of a national identity card with the linking of so many databases.

**What are the estimated costs and effects in Alaska?**

The Department of Administration estimates upfront costs for REAL ID database interfaces at DMV could total at least \$2 million, with additional costs at other agencies such as the Bureau of Vital Statistics and Department of Public Safety. Annual operating costs are unknown at this time.

**Is there any federal funding?**

There is \$80 million available for REAL ID grants nationwide. Homeland Security estimates it will cost states \$3.9 billion over the next 10 years to comply with REAL ID. North Carolina is submitting a grant application to operate a data hub for other states; Alaska is still considering whether to join the North Carolina effort.



## Coming Soon: National ID Cards?

Recently passed Real ID Act undermines civil rights, critics charge.

Erik Larkin, Medill News Service

Tuesday, May 31, 2005 11:00 AM GMT-08:00

WASHINGTON – Driver's licenses will become national ID cards—and Americans will be at greater risk of identity theft—under a new federal law that passed without significant congressional debate, critics charge.

The Real ID Act will require that states verify every license applicant's identity and residency status, and that they store addresses, names, and driving records in a database that every other state can access. It also mandates anticounterfeiting features for the licenses and a "common machine readable technology." In three years, licenses that don't meet the standards won't be accepted as identification for boarding an airplane, opening a bank account, or satisfying any other federally regulated use.

The law's sponsor, Rep. James Sensenbrenner (R-Wisconsin) said that the law "seeks to prevent another 9/11-type terrorist attack by disrupting terrorist travel." Opponents contend that the act is primarily meant to prevent people who illegally immigrate to the United States from getting licenses.

When he introduced the bill at a press conference earlier this year, Sensenbrenner referred to a part of the report from the September Commission that read, "Members of al-Qaida clearly valued freedom of movement as critical to their ability to plan and carry out the attacks prior to September 11th."

He said that his proposed legislation would curtail such movement and would tighten the rules for political asylum. In response to questions from reporters, he also suggested that the law was intended to "get a handle on illegal aliens in the United States."

### How It Passed

The controversy surrounding the new law relates to the way it was passed as much as to what it does. Because it passed as an amendment to an emergency spending bill providing funding for American troops in Afghanistan and Iraq, the Real ID Act did not come up for a vote on its own—or for full debate—in Congress.

"This really is a national identification card for the United States of America for the first time in our history," said Sen. Lamar Alexander (R-Tennessee) in the Senate the day before the spending bill passed. "We have never done this before, and we should not be doing it without a full debate."

According to critics, what makes this a national ID—as opposed to another form of classification such as a Social Security card—is the fact that driver's licenses already serve as standard forms of identification for everything from entering a bar to boarding an airplane. Though the Real ID Act doesn't obligate states to follow the new national standards, their licenses and state IDs won't satisfy ID requirements for any purpose under federal jurisdiction unless the states comply.

Alexander and 11 other senators, evenly split between Democrats and Republicans, sent a letter to Senate Majority Leader Bill Frist (R-Tennessee) last month asking him to block the amendment.

Though Alexander strongly opposed passing the Real ID Act without debate, he said he was "reluctantly" in favor of a national ID in the

late of September 11. Other observers remain deeply concerned by the prospect.

### **Risk of ID Theft**

"This is serious business," says Bill Scannell, a privacy advocate. If you want to board a plane, "you have to show your papers."

Scannell's Web site, [UnrealID.com](http://UnrealID.com), gathered more than 10,000 comments in 28 hours from people asking their senators to block the amendment the day before the Senate vote. Scannell faxed all those comments to the appropriate senators, but he says that his failed last-minute attempt was "like the charge of the light brigade."

The new law, which takes effect in three years, establishes general requirements, but the Department of Homeland Security will decide how to implement the broad-brush mandates. Anyone with a license from a state that doesn't meet Real ID's standards will have to get a new license before then.

One mandate provides that every state must have a database accessible by all other states and including all of the information printed on a license as well as the person's driving record. The original proposal would have created a single national database, but this provision was changed before the Senate vote.

Nevertheless, "if you link all the databases and you mandate the sharing of the information, you have created one network," says Tim Sparapani, legislative counsel for the [American Civil Liberties Union](http://American Civil Liberties Union).

Sparapani says that having 51 different databases (one for each state plus Washington, D.C.) could actually be worse than having a single big one. Any computer or network is only as secure as its weakest point—the weakest link in the chain. So if 51 databases are tied together, and 50 of them have great security but one is easy to break into, the entire conglomeration is vulnerable.

"I know that any kind of sophisticated hacker, ID thief, organized criminal, or terrorist will be able to hack into this system," Sparapani says. "There are so many points of entry."

### **Lack of Privacy Protections**

Sparapani says that the network of databases may also eventually hold electronic copies of sensitive personal documents. The law requires that states verify and store electronic copies of a driver's photo ID, birth certificate, and Social Security card, along with documents showing name and address.

The ACLU wants those documents to be stored separately from the network of driver's license databases, Sparapani says, but "it's not administratively efficient."

"States will do whatever is easiest and cheapest," he says.

The new law neither requires nor forbids that the documents be part of the same database.

"There were ample opportunities for the sponsors of the bill to build in privacy protections, and they chose not to," Sparapani says.

### **Machine Readable = RFID?**

The requirement that licenses incorporate a "machine-readable technology" is similarly vague. Already, 47 states—all but Alaska, Oklahoma, and Wyoming—have a bar code or a magnetic stripe. Either one would satisfy the law's mandate, as would radio frequency (RFID), a broadcast technology planned for upcoming electronic U.S. passports.

The broad language of the new law "really allows for many possibilities," says Neville Pattinson, director of technology and government

affairs at the U.S. headquarters in Austin, Texas, of the European company Axalto, which makes smart cards. A small computer chip in each card stores information and may include features such as encryption. Axalto makes both contactless chips, which use RFID, and contact chips, which must be touched to be read. The company is bidding to supply the contactless chips for the new passports.

Many privacy and travel groups have strongly protested against using chips with RFID in passports because they can be read from a distance. Broadcasting such passport data could make targets of American travelers, they say.

The Smart Card Alliance, an industry group that includes Axalto, is pushing to use smart-card technology in driver's licenses. Pattinson says contact chips would be more appropriate, but contactless chips with RFID would also satisfy the law's requirements.

A Department of Homeland Security spokesperson, Jared Eagan, says he is not aware of any discussions regarding the technology that might be used.

### Privacy Concerns Overblown?

The American Association of Motor Vehicle Administrators is "eager to work with DHS to fashion those provisions," says spokesperson Jason King. The 72-year-old organization represents state and provincial officials in the United States and Canada who administer and enforce motor vehicle laws, according to its Web site. King says that the department has not yet contacted the association.

"The driver's license framework is broken and in dire need of repair," King says. The Real ID Act "represents the first time in the history of driver's licenses that we will have consistency from state to state in how the driver's license is administered." The AAMVA favors that standardization, according to King.

"State motor vehicle administrators are very concerned about privacy," King says, but he sees the privacy concerns of the ACLU and other critics as overblown. For instance, he points out that driving records are already available online. In King's view, a provision in the law requiring security clearance for anyone who produces driver's licenses will help protect privacy.

Fear of government abuse or misuse of privacy under the new laws is misplaced, King believes. "Quite frankly, today, corporate America knows much more than [the] DMV does or ever will," he says. "We have no idea where you shop, nor do we care."

### The States Weigh In

Deciding whether and how privacy concerns should be addressed is now up to DHS, with consultation from the Department of Transportation. The task of implementing those decisions, though, will fall squarely on the states.

"States are going to make their best effort with this," says Cheye Calvo, transportation committee director for the National Conference of State Legislatures. "They're not happy about it, but they're going to try to do it."

Calvo says that the new law could cost the states as much as \$1 billion. In addition to purchasing new machines and technology, state DMVs will have to hire new people to scan and verify documents, he says. Virginia alone estimates that it will have to spend \$237 million, according to Calvo.

The additional time required for verification could mean the end of being able to go to a DMV and get a license in the same day, Calvo says. States must verify the "issuance, validity, and completeness of each document" under the new law. Even if states streamline contacts with utility companies, hospitals, and other organizations that might supply documents, adding even 10 minutes to the time required for each of the millions of licenses involved would translate into a huge new time and manpower burden.

### State Protections Removed

Calvo sees the privacy and civil liberty concerns about the new law as serious. Aside from issues involving linked databases and stored

documents. He notes that the new federal law will invalidate existing state laws meant to protect judges, police, and victims of domestic violence.

For instance, some states currently allow battered women to use the address of the state attorney general's office instead of their real address on their license. But there are no exceptions to the Real ID Act's requirement that people's home address appear on their licenses.

There is a legitimate need to revise driver's license laws to prevent situations such as having licenses in two states at the same time, Calvo says. But he thinks that the issue of securing driver's licenses was taken care of in December when Congress passed the Intelligence Reform Act, which called for the Department of Transportation to revise laws in consultation with the states. Now, however, those provisions have been superseded by the Real ID Act, which was written without input from the states.

Calvo says that the flaws in the new law stem largely from its having skipped the normal process of debate in Congress. "This is why you have a deliberative process, this is why you have hearings," he says.

Adding a controversial bill like the Real ID Act to a "must-pass" bill like the emergency military spending authorization doesn't happen very often, Calvo says. "In this case it was passed for political reasons."





## Homeland Security Warn States of Airport Hassles if They Don't Adopt ID Rules

Monday, March 03, 2008

Associated Press

WASHINGTON —

Homeland Security officials are pushing recalcitrant states to adopt stricter driver's license standards to end a standoff that could disrupt domestic air travel.

States have less than a month to send a letter to the Homeland Security Department seeking an extension to comply with the Real ID law passed following the 2001 terror attacks. Some states have resisted, saying it is costly, impractical and an invasion of privacy.

Four states — Maine, Montana, New Hampshire and South Carolina — have yet to seek an extension.

Homeland Security Secretary Michael Chertoff argues that the law fixes a critical gap in security identified by the commission that investigated the 9/11 attacks: the ease of obtaining government-issued ID. It will also hinder would-be con artists and illegal immigrants, he said.

Real ID-compliant driver's licenses would have several layers of new security features to prevent forgery. They would also be issued after a number of ID checks, including verification of birth certificates, Social Security numbers and immigration status. Officials acknowledge it will take years to phase in all the different security measures.

To bring the states in line, Chertoff warned that any state that does not seek an extension by the end of March will find that, come May, their residents will not be able to use their licenses to board domestic flights.

Chertoff's assistant secretary, Stewart Baker, sent letters to several governors Monday reminding them of the looming deadline, and urging the holdouts to seek an extension.

In recent years, 17 states passed legislation or resolutions opposing Real ID, but now only a handful appear willing to challenge the government publicly.

Officials in Maine and Montana insisted Monday they would not seek an extension. A spokesman for South Carolina's governor said he was still considering it. New Hampshire passed a law last year prohibiting the state from participating in the Real ID program, and Gov. John Lynch wrote Chertoff last week asking him not to impose the requirements on New Hampshire citizens.

A fifth state, Delaware, has sent a letter asking for an extension, but DHS officials are still weighing whether the wording of the letter legally adds up to an extension request.

If the states do not seek an extension by March 31, their residents will be subjected to secondary screening by security workers before boarding any domestic flight beginning May 11.

"We're not going to buckle under here," said Montana Gov. Brian Schweitzer. "My guess is the people of Montana would be

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proud to walk through that line."

Schweitzer called the Real ID proposal a bureaucratic boondoggle that will cost his state a fortune and give a false sense of security without actually making ID more reliable. He has sought to rally opposition to Real ID, but the vast majority of states have decided not to test whether Washington is bluffing.

As the high-stakes game of chicken continues, federal authorities are not publicly saying whether seeking an extension actually counts as complying with the law. In his recent letters, Baker said only that the 45 states that have sought extensions are "on track toward improved security."

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All market data delayed 20 minutes.



**Feds Cite Hassles if ID Law Not Followed**

By DEVLIN BARRETT

Associated Press

March 4, 2008

**WASHINGTON (AP)** -- Homeland Security officials are pushing recalcitrant states to adopt stricter driver's license standards to end a standoff that could disrupt domestic air travel.

States have less than a month to send a letter to the Homeland Security Department seeking an extension to comply with the Real ID law passed following the 2001 terror attacks. Some states have resisted, saying it is costly, impractical and an invasion of privacy.

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# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHJR 19(STA)  
 (H) Publish Date: 3/13/2008

Identifier (file name): HJR 19 Dept. Affected: \_\_\_\_\_  
 Title: Oppose Federal ID Requirements RDU: \_\_\_\_\_  
 Component: \_\_\_\_\_  
 Sponsor: Representative Coghill  
 Requester: House State Affairs Committee Component Number: \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	Appropriation Required	Information					
	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>							
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<b>CHANGE IN REVENUES ( )</b>							
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time							
Part-time							
Temporary							

**ANALYSIS:** (Attach a separate page if necessary)

Prepared by: Nancy Manly, Committee Aide  
 Division: House State Affairs Committee  
 Approved by: Representative Bob Lynn  
 Chair: \_\_\_\_\_

Phone 465-2794  
 Date/Time 3/11/08 12:00 AM  
 Date 3/11/2008