

Repealing REAL ID? Rolling Back Driver's License Security

By Janice Kephart

Senior members of the Senate Committee on Homeland Security and Governmental Affairs are set to introduce the “Providing for Additional Security in States’ Identification Act of 2009,” also known as the PASS ID Act.¹ This act would repeal the REAL ID Act of 2005, legislation aimed at ensuring that all states meet minimum driver’s license security standards in order to enhance national security and driver safety, combat drug running, and better safeguard against identity theft and fraud. While no state must comply, the 30 or so states that are choosing to actively meet REAL ID minimum standards are helping make America less vulnerable. Opponents critical of REAL ID provisions have painted the law as an affront to privacy and states’ rights, but the reality is that REAL ID is the appropriate means by which to maintain liberty and security. Congress should preserve REAL ID, fund it adequately, and take steps to ensure its full implementation.

A 9/11 Commission Recommendation

REAL ID was enacted in 2005 in direct response to recommendations of the 9/11 Commission that the federal government set secure standards for identifications (IDs) such as driver’s licenses. The Commission found that 18 of the 19 9/11 hijackers obtained 17 driver’s licenses and 13 state IDs — at least seven by fraud in Virginia. Six of these IDs were used to help the hijackers board planes on the morning of 9/11.² Of those obtained legally, many were duplicates, with some states issuing the same hijacker multiple licenses within a several-month period. In its report, the 9/11 Commission specifically stated:

Secure identification should begin in the United States. The federal government should set standards for the issuance of birth certificates and sources of information, such as driver’s licenses.³

Most of the REAL ID provisions were adopted from a secure ID framework drafted by the American Association of Motor Vehicle Administrators (AAMVA) and published in a lengthy report in response to the 9/11 Commission’s investigation.⁴ The standards emphasized that identity documents must be secure in their content, in their physical features, and in their issuance process. Without identity security at the base of identity document issuance processes, AAMVA concluded, driver’s license issuing standards would not produce secure licenses.

The Need for Standards

The need for more stringent standards, however, dates back before 9/11. Identity has always been the cornerstone of a free society and for decades the key form of identification in the United States has been the driver’s license. In its 2004 Security Framework, AAMVA made clear its parameters for security:

The license is now readily accepted as an official document for both licensed drivers, and, in most jurisdictions, for non-drivers. The Motor Vehicle Administrations (MVAs) who issue these documents have unique, continuous, and long-lasting contact with most of their constituents from the individual’s teenage years onward. This document provides minimum standards of security, interoperability, and reciprocity agreed upon by all North American MVAs regarding driver’s license/identification card (DL/ID) issuance. Each MVA shall:

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- *Either meet or exceed the requirements of the Security Framework based on risk analysis and resource availability.*
- *Determine that all individuals granted a DL/ID “are who they say they are.”*
- *Ensure that each individual issued a DL/ID “remains the same person” throughout subsequent dealings both with itself or any other MVA.*

Licenses often have been copied or manipulated and are subject to vast amounts of identity theft and fraud. For example, a woman in Florida plead guilty to obtaining a fake driver’s license in someone’s name and using it to draw on the victim’s bank account and obtain credit cards — charging about \$4,000 on those cards.⁵ Driver’s license fraud rings have been prosecuted nationwide, including well-known cases in Michigan,⁶ Pennsylvania, New Jersey,⁷ New York,⁸ and Ohio.⁹ The Castorena Family Organization operated document-fraud franchises in every major city in the United States for over a decade, reaping millions annually while counterfeited and stolen IDs flowed north across the U.S. southern border and money flowed south.¹⁰

In 2005, to address 9/11 Commission and AAMVA recommendations and growing media attention on the issue of driver’s license fraud, Congress enacted the REAL ID Act. The Act includes the following requirements that states must meet in order to be deemed in compliance with its provisions:¹¹

- **Identity Verification.** Each card will be required to contain a person’s full legal name, signature, date of birth, gender, and driver’s license or identification number, as well as a photograph and the address of his/her principal place of residence.
- **Document Authentication.** States are required to digitize birth records (another key 9/11 Commission recommendation) and review the authenticity of information provided to obtain a license — such as Social Security information, immigration or lawful presence documentation, and other proof of identity, such as principal place of residence.
- **Card Security.** Requires a certain level of physical security features in order to ensure more tamper-resistant cards.

- **Security Plans.** In order to assure states meet security and privacy standards, REAL ID requires accountability, requiring states to submit detailed security plans.
- **One Driver/One License.** REAL ID requires creation of a network of state databases in order to enable states to verify that applicants do not hold multiple licenses in multiple states, something states have done voluntarily for commercial licenses and “bad” drivers for years, and are currently doing in regard to exchanging digital images of drivers outside of REAL ID requirements.
- **“Official Purposes” Requirement.** REAL IDs will be necessary for entry into areas deemed for “official purposes,” defined to include such activities as boarding a commercial aircraft or entering a federal building.

Controversy Arises

Soon after REAL ID was enacted, however, controversy began. States were unhappy about having to pay for upgrades to their licensing systems to meet the REAL ID standards.¹² Privacy advocates feared the onset of a national identification card and creation of national databases.¹³ Immediately, state legislatures began to make assumptions about the ramifications of REAL ID, even prior to the release of proposed regulations in 2008 — leading to significant misinformation about the execution of the program.

By the time Department of Homeland Security Secretary Michael Chertoff rolled out the REAL ID regulations in January 2008, however, the substantive concerns voiced by the states had been assuaged. First, in order to address the cost and logistics concerns, compliance times were lengthened to substantially drive down costs associated with issuing REAL ID licenses. Originally REAL ID would have required states to produce compliant IDs for all driver’s licenses, including new applicants, renewals, and those simply wanting to be able to board a plane, but whose licenses would not normally be up for renewal by 2013. But this cost burden was reduced when REAL ID regulations included phase-in requirements to allow states to become compliant first with licenses of those under 50 years old by 2014, and those over 50 years old by 2017.¹⁴ An internal economic impact assessment by DHS of the new phase-in compliance time concluded that REAL ID could be implemented at a cost of \$8 per person.¹⁵ In addition, under the grant program created by the REAL

ID law, about \$149 million in appropriated funds were distributed over the course of 2008 to assist states with REAL ID implementation.¹⁶

In an effort to implement the one driver/one license program, DHS designated Mississippi as the “lead hub” state, appropriating \$17 million to help states begin the process of meeting the information sharing/state-based database requirements of REAL ID, with Florida and Wisconsin as two partner states in the program.¹⁷ In addition, Kentucky was awarded \$3 million for the purpose of preparing for the nationwide deployment of electronic birth record verification to support REAL ID identity verification, otherwise known as Electronic Verification of Vital Events (EVVE).¹⁸ To date, 13 states have digitized their birth records and three — North Dakota, South Dakota, and Iowa — have a verification network for the purpose of checking driver’s license applications.¹⁹

The Real Benefits of REAL ID

Despite continued efforts by DHS, controversy over REAL ID still remains. Given the continuance of this debate, it is important to lay out what REAL ID actually does, and what it does not. The basic premise of REAL ID is to set minimum standards for driver’s license and ID issuance.²⁰ It in no way directs states on how many IDs they can issue or to whom they may issue them. Nor does the law bind states to its provisions. Rather, REAL ID simply makes clear that noncompliant driver’s licenses and noncompliant state-issued ID cards cannot be used as identification for any federal purpose. In this way, REAL ID does the following:

Makes Americans Safer. REAL ID fulfills a key 9/11 Commission recommendation. This set of recommendations has frequently been referred to on a bipartisan basis as important guidelines that should be implemented in order to help effectively prevent acts of terrorism against America.²¹ In fact, numerous bills have been passed for the purpose of implementing 9/11 Commission recommendations, including the Intelligence Reform Act of 2004 and Speaker of the House Nancy Pelosi’s Implementing the Recommendations of 9/11 Commission Act of 2007, to name just two.

The driver’s license provisions of the REAL ID law were no different — the recommendations requiring that all states meet minimum security standards for issuance of driver’s licenses contained in the report were meant to make America safer. The law went further, too, reflecting the Commission’s findings about the use of fraudulently obtained Virginia IDs by six hijackers to

board planes on the morning of 9/11 as a basis to require REAL IDs (or secure equivalents) to board commercial aircraft or enter critical facilities such as nuclear power plants.²²

Tackles Illegal Immigration. REAL ID permits states to issue driver’s licenses and IDs to whomever they deem necessary, but only those with lawful presence (the demonstration that one is in the United States legally) are to obtain a REAL ID. More specifically, REAL ID not only requires lawful presence, but also requires the license to match the alien’s legal length of stay in the United States to the length of the driver’s license/identification term. This means that once a person is no longer lawfully present in the United States, his/her driver’s license should also no longer be valid. This is necessary so that individuals cannot come to the United States legally and overstay their length of stay, yet still be able to use their driver’s license or ID with all of its privileges, including access to federal areas with “official purposes.” Nor will individuals here illegally be able to use false driver’s licenses to fraudulently obtain government services.²³

Maintains Privacy. The REAL ID Act requires those handling database information and producing IDs to undergo more rigorous background checks and screening than are currently in place. Furthermore, facilities that create and store IDs are required to maintain a minimum level of physical security of these premises. This means that information is subject to *more* protection, not less. Furthermore, REAL ID does not give information over to the federal government, but instead ensures that states remain in charge of this information, in the same way they did prior to REAL ID. In addition, states have to submit certification plans and meet privacy standards to demonstrate that they are in compliance with REAL ID standards.

Prevents Fraud and Identity Theft. Billions of dollars are lost each year in identity theft, fraudulently obtained government services, and other criminal activities. A lack of standards that takes security for granted simply makes no sense in the 21st century. The 9/11 Commission recommendation requiring identity verification, lawful presence, and the digitization of documents such as birth and death records, has already proven itself to substantially reduce fraud. Furthermore, those that have not come into compliance with REAL ID, like Maryland, have felt the strain that driver’s license fraud has had on their state budgets.²⁴ Better known is the value of checking Social Security numbers and lawful

status, which nearly every state has begun since the passage of REAL ID. (Twice as many states are requiring lawful presence today than were two years ago.) Also, to enhance driver safety alongside the reduction of criminal fraud, the one driver/one license rule in REAL ID enables states to prevent bad drivers from obtaining new licenses in other states, while stopping criminals from evading the law by using multiple identities in one or more states.

Myths about REAL ID

Despite these benefits, REAL ID is subject to multiple criticisms.²⁵ But many of these are based on widely disseminated myths that should be dispelled given the benefits of REAL ID. For example:

Myth: REAL ID invades privacy.

Fact: REAL ID protects privacy by assuring that people are who they say they are. The information contained on the machine-readable stripe on the back of a REAL ID license is the same as what is required by most states today on the face of the license — such as a digital photo, name, permanent address, age, height, and weight and thus does not implicate privacy concerns. REAL ID licenses are not required to contain RFID (radio frequency identification) technology, biometric fingerprint information, or Social Security numbers — inclusion of which might rightfully cause alarm to private advocates.

Myth: REAL ID will create a national ID card and a hackable, national database.

Fact: There is no aggregation under REAL ID of personal data into a centralized database operated by the federal government.²⁶ REAL ID calls for the states to operate and access secure databases that are queried by authorized parties (such as MVAs and law enforcement). No databases are created to serve REAL ID; it only directs states to bring together pre-existing databases into a broader, secure network that will allow states to talk to one another and prevent fraud. The federal government, moreover, cannot and will not have access to any applicant's information. There is nothing "national" about the process. If anything, REAL ID can be said to obviate any need for a national ID.

Myth: REAL ID is a federal mandate that eliminates the right of states to issue driver's licenses and identification.

Fact: The driver's license is the most common form of ID used in the United States today, accepted for everything from opening a bank account to boarding a plane to picking up movie tickets with a credit card. Securing an already widely used credential makes sense on the state, not national level. But the right to choose to do this, even under REAL ID, still resides with an individual state. Each state can still issue many varieties of REAL ID-compliant cards and even non-compliant IDs — states do not have to comply, because the law remains completely voluntary. Finally, REAL ID does not affect the rights of states to decide who is eligible for a driver's license or ID; that decision remains with each state.

PASS ID Act: Not the Right Strategy

Upon introduction, PASS ID advocates likely will attempt to construe the bill as a means of maintaining 9/11 Commission recommendations in a more flexible manner than represented by REAL ID. The reality is that this act would repeal REAL ID outright, stripping away the substantive provisions that are already making driver's license issuance more secure. In short, PASS ID will set the same standards for driver's licenses as were recommended by the Commission, but the standards will not be enforceable or create actual *secure* practices among the states. The primary supporters of PASS ID have made their opposition to REAL ID clear and the PASS ID language demonstrates that their goal will be met, to freeze standards as they are today instead of continuing the process of strengthening licensing under REAL ID. While recent drafts of PASS ID circulating on the Hill continue to change, some aspects have remained constant throughout the subsequent drafts:

Repeals 9/11 Commission Identity Verification Recommendations in Two Key Areas. (1) ensuring that people are who they say they are, e.g. identity verification; and (2) repealing the digitization of birth records recommendation as pertains to driver's license issuance.

PASS ID returns identity verification to identity validation, the pre-9/11 standard, which does not encourage states to do anything other than rubber stamp documents like birth certificates, principal residency documents, electronic verification of Social Security numbers, and passports. This was the same process in place when a fake document (in this case a principal residence affidavit) in Virginia enabled five 9/11 hijackers to obtain IDs in early August 2001. REAL ID combats this problem by adding passport verification and birth record digitization as additional layers of security.

PASS ID does maintain the lawful presence checks of REAL ID, which is an important standard for driver's license security. States like Maryland recently began checking lawful presence, after finding that allowing illegal immigrants to obtain driver's licenses had made their state a magnet for fraud, crime, and bad drivers. Gov. O'Malley, now a co-chair of the National Governors Association's Homeland Security Committee, signed a bill to comply with REAL ID on May 8, 2009.²⁷

But lawful presence checks are only effective if there is sufficient identity verification (making sure individuals are who they say they are) and document authentication (ensuring that documents used are valid and trustworthy). Absent sufficient verification, all that is required, then, for an applicant to bypass PASS ID requirements would be to steal, borrow, or buy a legal immigrant's or U.S. citizen's identity, submit paperwork that would be "validated" (e.g. simply looked at), and then undergo a lawful presence screening (which is largely ineffective without the identity verification step). In essence, these requirements would further enable identity theft, not control it as do the requirements of REAL ID.

Gives States Money Without Accountability. PASS ID gives grant money to states with no accountability and no requirement that they actually comply with the PASS ID requirements. Not only is the "compliance" deadline (for standards already in place or exceeded in most states) pushed back another four years until 2015, but the bill requires no showing of progress toward the standards in exchange for the grant monies. Furthermore, at a cost to U.S. taxpayers, the act requires the federal government to provide free access to states for lawful status databases checks and, if states choose to check Social Security number information, taxpayers will also pick up the tab.

Repeals Airport ID Security. The 9/11 Commission found that at least six hijackers used state-issued IDs or driver's licenses at airport check-in counters on the morning of 9/11. This is why the REAL ID Act put into place a restriction that one must present a secure ID before boarding a commercial airplane. Under PASS ID, however, this provision is eliminated and anyone can board a commercial aircraft whether or not they have a secure ID. Furthermore, if a fake ID is presented and later discovered, the perpetrator would no longer be prosecuted under federal criminal law.

Eliminates Information Sharing Between States. The 9/11 Commission also found that the 9/11 hijackers held multiple driver's licenses and IDs from multiple states, similar to bad drivers, drug runners, counterfeiters, and others trying to get around the law. While grant monies have been given to the states under REAL ID to create an information-sharing system to assure that driver's license applicants no longer hold licenses in other states, PASS ID would stop that program, replacing it with a demonstration project that is likely to never result in an actual, useable system.

What to Do Instead

Since 2005, there have been several attempts to erode REAL ID Act requirements, and PASS ID is another such effort. Given the progress that has been made on REAL ID, Congress should take the following steps to preserve, rather than repeal REAL ID:

Keep REAL ID. The REAL ID standards can be implemented in a manner that respects constitutionally guaranteed liberties and the principle of federalism, makes economic sense, better protects the individual liberties and privacy of Americans, and contributes to national security and public safety.²⁸ Postponing or modifying implementation confuses the work already in process and detracts from the underlying purpose of REAL ID — to enhance security of both the individual and the nation.

Appropriate Necessary Funds to Get the Job Done. To date, states have been allocated \$129 million in grant monies. However, roughly \$50 million or so of the FY09 monies appear to remain unspent.²⁹ While Congress allocated twice the sum in FY 2009, \$100 million, as they had the prior fiscal year, there remains recognition that these sums do not cover costs for REAL ID implementation. Rather than repeal REAL ID, Congress should be supporting the states by appropriating appropriate amounts and should spend the remaining funds as originally intended.

Move Interested States into the REAL ID System. About 16 states have gone public in their support of REAL ID and are working toward achieving the first group of 18 "material compliance" benchmarks set out by REAL ID regulations by the January 1, 2010, deadlines.³⁰ These material compliance benchmarks indicate progress toward REAL ID goals and include such target goals as mandatory facial image capture, requiring applicants to sign applications under penalty of perjury, ensuring

physical security of the ID cards, ensuring the security of “personally identifiable information, verification of Social Security numbers and lawful status with federal database queries, and conducting background checks on covered MVA employees, amongst others. States such as Alabama, Colorado, Delaware, Florida, Indiana, Iowa, Kentucky, Maryland, Mississippi, Nevada, New Jersey, North Carolina, Ohio, Rhode Island, Texas, Virginia, and Wisconsin should be deemed in material compliance as soon as practicable, encouraging other states to follow suit. In addition, Mississippi is the lead state for identity verification hub requirements and development, having received \$17 million in 2008 for its development.³¹

Other states are going about compliance quietly and without political commentary, not expressly calling for REAL ID compliance. For example, Oregon signed an executive order in November 2007 requiring the state to abide by AAMVA standards in issuing driver’s licenses, which are actually more stringent than REAL ID.³² In addition, although Maine remains skeptical of certain aspects of REAL ID, Gov. Balducci has come to value core elements of REAL ID. He recently fought back an attempt to repeal its agreement to comply, reiterating that a weak ID issuance process attracts criminals.³³ Maine, like Maryland, is another state whose change of heart on REAL ID from vocally opposed to vocally supportive may be indicative of a trend neither discussed nor acknowledged by many.

Add Flexibility to the State Grant Program. Some states have chosen to enhance the security of their IDs through Enhanced Driver’s license (EDL) Memorandums of

Agreement with DHS.³⁴ This program enables states to add additional information to driver’s licenses for the purpose of complying with the Western Hemisphere Travel Initiative (WHTI), which fully rolled out on June 1, 2009. WHTI requires a passport or “biometric equivalent” for any person, including U.S. citizens, to enter the United States from Bermuda, the Caribbean, Mexico, or Canada. Several states have successfully implemented EDLs, including Washington, New York, Vermont, and, as of late April 2009, Michigan.³⁵ Texas lawmakers have approved EDLs, but their governor has held back the process.³⁶ DHS should enable states that choose to implement an enhanced driver’s license program that complies with REAL ID standards to use REAL ID grant monies for EDLs in addition to REAL IDs — producing a dual benefit.

Secure IDs for Safe America

When a state issues a driver’s license or ID, both the state and the individual should be confident that the license is a secure, authenticated credential. DHS issued final regulations for REAL ID in January 2008, based on thousands of comments from states and other interested parties. Many states have made significant progress toward this end already. States are working toward implementation, including putting millions of dollars toward improvements in their driver’s license issuing systems. Stopping those efforts now would simply waste money, confuse processes that took four years to get in place, and delay what most Americans want: secure IDs for a safe America.

End Notes

- ¹ See Janice L. Kephart, “The Appearance of Security: REAL ID Final Regulations vs. PASS ID Act of 2009,” Center for Immigration Studies, April 2009, <http://cis.org/PASSID>.
- ² Janice L. Kephart, “Identity and Security: Moving Beyond the 9/11 Staff Report on Identity Document Security,” 9/11 Security Solutions, February 23, 2007, pp. 8-11, http://www.911securitysolutions.com/index.php?option=com_content&task=view&id=117&Itemid=38
- ³ National Commission on Terrorist Attacks Upon the United States, “The 9/11 Commission Report,” July 26, 2004, <http://www.9-11commission.gov/report/911Report.pdf>.
- ⁴ American Association of Motor Vehicle Administrators, “DL/ID Security Framework,” February 2004, <http://www.aamva.org/aamva/DocumentDisplay.aspx?id={25BBD457-FC4F-4852-A392-B91046252194}>.
- ⁵ United States Department of Justice, Identity Theft, <http://www.usdoj.gov/criminal/fraud/websites/idtheft.html>.
- ⁶ Janice L. Kephart, “Identity and Security: Moving Beyond the 9/11 Staff Report on Identity Document Security,” 9/11 Security Solutions, February 2007, p.10, http://www.911securitysolutions.com/index.php?option=com_content&task=view&id=117&Itemid=38.
- ⁷ Janice L. Kephart, “Identity and Security: Moving Beyond the 9/11 Staff Report on Identity Document Security”, p. 11.
- ⁸ Janice L. Kephart, presentation before The Heritage Foundation, “Issuance of REAL ID Regulations,” January 2008.
- ⁹ Janice L. Kephart, “Ohio Driver’s Licenses Hit by Four-Year ID Theft Scam,” Center for Immigration Studies, December 17, 2008, <http://cis.org/kephart/OHDriversLicense>.
- ¹⁰ Janice L. Kephart, “Identity and Security,” p. 9. See also press release “Francisco Javier Miranda-Espinosa Sentenced to Serve Over 11 Years in Federal Prison for Aggravated Identity Theft and Conspiracy to Launder Monetary Instruments,” U.S. Attorney for Colorado, February 2006, www.usdoj.gov/usao/co/press_releases/archive/2006/February06/2_16_06.html. See also Press release, “Joint Task Forces Created in 10 Cities to Combat Document and Benefit Fraud,” U.S. Immigration and Customs Enforcement, April 5, 2006, http://www.dhs.gov/xnews/releases/press_release_0884.shtm.
- ¹¹ The Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, Public Law 109-13, Section 206 (2005), http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ013.109.
- ¹² Walt Williams, “State Lawmakers Challenge REAL ID Act,” *The State Journal* (Charleston, W.V.), January 24, 2008, <http://www.statejournal.com/story.cfm?func=viewstory&storyid=33938>.
- ¹³ Eliot C. McLaughlin, “Federal ID Plan Raises Privacy concerns,” CNN.com, <http://www.cnn.com/2007/POLITICS/08/16/real.id/index.html>.
- ¹⁴ Anne Broache, “Homeland Security Proposes Delayed REAL ID Rollout,” CNet News, January 11, 2008, http://news.cnet.com/8301-10784_3-9848924-7.html.
- ¹⁵ Secretary Chertoff, in his remarks at a January 2008 press conference stated: “What we’re doing is we’re taking the current cost estimate, which may — which is a pretty generous estimate, I might say — which is under \$4 billion for a period of 10 years nationwide. And if you were to extrapolate that over all the licenses, it would essentially, on a pro rata basis, come out to a cost of a little more than \$8 per license.” Homeland Security Secretary Michael Chertoff, remarks at a Department of Homeland Security press conference on REAL ID, Washington, D.C., January 1, 2008, www.dhs.gov/xnews/speeches/sp_1200320940276.shtm.
- ¹⁶ Janice L. Kephart, “Secretary Chertoff’s Stocking Stuffer: States Get Infusion of Secure ID Monies” Center for Immigration Studies, December 19, 2008 at <http://cis.org/kephart/chertoffsstockingstuffer>.
- ¹⁷ *Ibid.*
- ¹⁸ National Association for Public Health Statistics and Information Systems, Presentation at June 2007 Annual Meeting, June 2007.
- ¹⁹ Rose Trasatti, “All About EVVE,” National Association for Public Health Statistics and Information Systems, August 6, 2007, http://www.aphsa-ism.org/Conference/Doc/2007%20ISM%20Conference%20Presentations/Session%201-3_Citizenship%20Verification_Trasatti.pdf. “EVVE is popular in reducing fraud in Social Security and Medicare and Medicaid checks already. For example, EVVE Pilot with SSA for August 2002 to December 2003 for Birth/Death Verifications/Certifications included participating Vital Records Offices in California, Colorado, Hawaii, Iowa, Minnesota, Mississippi, Missouri, Oklahoma and SSA Local Offices in 26 states had EVVE access.”

²⁰ James Jay Carafano, “DHS Gets REAL ID Right,” Heritage Foundation *WebMemo* No. 1801, February 7, 2008, <http://www.heritage.org/Research/HomelandSecurity/wm1801.cfm>.

²¹ James Jay Carafano, “Making REAL ID a Reality — Concerns, Challenges, Choices, Solutions,” Testimony before the Senate Committee on the Judiciary, Heritage Foundation, May 8 2007, <http://www.heritage.org/Research/HomelandDefense/tst050807.cfm>.

²² National Commission on Terrorist Attacks upon the United States, “9/11 and Terrorist Travel,” August 21, 2004, p. 43.

²³ *Government Technology*, “Texas Attorney General Halts Sale of Fake Driver’s Licenses,” April 11, 2008, <http://www.govtech.com/gt/285914>. See also WBALTV.com, “I-Team: Fake IDs Easy to Get for Immigrants,” July 30, 2007, <http://www.wbalv.com/news/13784640/detail.html>.

²⁴ Janice Kephart, “MD Faces Music on Driver’s licenses,” Center for Immigration Studies, April 22, 2009, <http://www.cis.org/Kephart/MDHouseBill387-REALID>.

²⁵ See Center for Democracy and Technology, “REAL ID: What Should Congress Do Now? CDT Analysis of the REAL ID Act and the Department of Homeland Security’s Final Regulations,” February 1, 2008, http://www.cdt.org/security/identity/20080201_REAL%20ID_hillbrief.pdf.

²⁶ James Jay Carafano, “Making REAL ID Real-Finally,” Heritage Foundation *WebMemo* No. 1773, January 11, 2008, <http://www.heritage.org/Research/HomelandSecurity/wm1773.cfm>.

²⁷ Laura Smitherman, “O’Malley Signs Contentious New Laws,” *The Baltimore Sun*, May 8, 2009, http://www.baltimoresun.com/news/local/politics/bal-md.bills08may08_0,7190848.story. See also Andy Green, “O’Malley’s Position on Real ID,” *The Baltimore Sun*, March 31, 2009, http://weblogs.baltimoresun.com/news/local/politics/2009/03/omalleys_position_on_real_id.html.

²⁸ James Jay Carafano, “Making REAL ID A REALity — Concerns, Challenges, Choices, Solutions,” Testimony Before the Senate Committee on the Judiciary, Heritage Foundation, May 8, 2007, <http://www.heritage.org/Research/HomelandDefense/tst050807.cfm>.

²⁹ Janice L. Kephart, “Secretary Chertoff’s Stocking Stuffer: States Get Infusion of Secure ID Monies.”

³⁰ Janice L. Kephart, “REAL ID Final Rules Summary,” 9/11 Security Solutions, February 21, 2008, http://www.911securitysolutions.com/index.php?option=com_content&task=view&id=154&Itemid=38.

³¹ Department of Homeland Security Press Office, “Frequently Asked Questions: REAL ID,” June 20, 2008, <http://www.6pinternational.com/news/copy%20of%20real%20id%20grants%20faqs.pdf>. See also American Financial Services Association State Government Affairs Committee, “The REAL ID Act: State Implementation & Effects,” March 2009, p. 4, <https://www.afaonline.org/CMS/fileREPOSITORY/The%20REAL%20ID%20Act%20Final.pdf>. **Alabama:** Citizens take computerized tests; their records are captured electronically; their digital photos are stored in a searchable database; and their names are automatically checked against national databases to confirm identity and ensure they are legally entitled to license. See also Alabama Department Public Safety “States special report on states special compliance with PL 109-13, the REAL ID law,” July, 2008. **Colorado:** See also Colorado Motor Vehicle Division ITAA IdentEvent, “One State’s Journey to REAL ID: The Impetus for Change,” October 17, 2007, www.itaa.org/upload/es/events/idevent07/presentations/vecchi.pps. **Delaware:** Director, Delaware Division of Motor Vehicles, “Federal Real ID Act Delaware Implementation Proposal,” July 25, 2008, www.aamva.org/aamva/DocumentDisplay.aspx?id=%7BDB0BD626-AD21-44CA-9023-5B2F19D058CB%7D. **Florida:** Received \$1.2 million to partner with the lead hub state for pilot implementation and verification testing. See also www.fhsmv.gov/realid. **Indiana:** Received \$1.2 million to partner with the lead hub state for pilot implementation and verification testing. See also Gina Scott, “Indiana Launches More Secure Driver’s license,” June 6, 2007, <http://www.govtech.com/dc/articles/124057>, which states: “BMV Commissioner Ron Stiver said the new licenses will result in a total cost savings of \$2.5 million during the six-year contract period....” **Iowa:** Iowa Department of Transportation, “REAL ID: Questions and Answers” February 20, 2008, www.iowadot.gov/Mvd/ods/realid.pdf. **Kentucky:** Department of Homeland Security Press Office, “Frequently Asked Questions: REAL ID,” June 20, 2008, <http://www.6pinternational.com/news/copy%20of%20real%20id%20grants%20faqs.pdf>, states: “FEMA awarded Kentucky an additional \$4 million to help states connect with other state Department of Motor Vehicle Departments Vital Records Offices (VRO). The Commonwealth of Kentucky will enable state VROs to access the Electronic Verification of Vital Events hub (a Web-based portal) to verify birth and death record information of individuals applying for REAL ID driver’s licenses and identification cards. Kentucky will also use these funds to expand the scope of its REAL ID Pilot Project by comparing U.S. foreign-born citizens applying for a REAL ID driver’s licenses with the U.S. Department of State’s foreign born citizen birth

record information.” **Maryland:** Governor Martin O’Malley signed a bill to comply with REAL ID on May 8, 2009.

Mississippi: Received \$17 million to become the lead state for verification hub requirements and development.

Nevada: Received \$1.2 million to partner with the lead hub state for pilot implementation and verification testing. See www.dmvnv.com/realid, which states: “Nevada citizens will have the option of obtaining a Real ID compliant driver’s license or identification card, or a standard Nevada driver’s license as issued today.” Tim Doulin, “Rules for driver’s licenses tightened; Ohio plans to start stricter screening in 2010 to meet federal Real ID standards,” *The Columbus Dispatch*, January 12, 2008, http://www.dispatch.com/live/content/local_news/stories/2008/01/12/Secure_License_ART_ART_01-12-08_A1_4191M6L.html.

Ohio: First state to request and receive an extension: “Ohio has no plans to oppose Real ID. At this time, we are going to have to review the final rules to make a determination, but we have been moving full steam ahead with the intent of implementing Real ID in Ohio.” **Rhode Island:** www.dmv.ri.gov/ states “Governor Carcieri has indicated that he supports REAL ID implementation in Rhode Island. States complying with REAL ID must begin issuing REAL ID compliant licenses no later than May 2008.” **Virginia:** Boasts that “Virginians will soon have the safest, most secure driver’s licenses and ID cards in the United States. In spring 2009, DMV will implement new secure driver’s licenses and ID cards and a new issuance process.” Virginia Association of Chiefs of Police, “New Virginia licenses, ID cards coming in March,” http://www.vachiefs.org/news/item/new_virginia_licenses_id_cards_coming_in_march/. In addition, the law requires compliance with federal secure ID standards while, for political reasons, not mentioning REAL ID. **Wisconsin:** Received \$1.2 million to partner with the lead hub state for pilot implementation and verification testing. See also Wisconsin Briefs from the Legislative Reference Bureau, “REAL ID,” March 2008, states: “Under the 2007-2008 biennial budget provisions Wisconsin [will be] in full compliance with the federal Real ID law,” <http://www.legis.state.wi.us/lrb/pubs/wb/08wb3.pdf>.

³² Office of the Governor, State of Oregon, “Executive Order NO. 07 – 22, “Standards for Issuance of Oregon Driver’s licenses and Identification Cards,” November 16, 2007.

³³ Maine Office of the Governor, “Governor Baldacci Vetoes Bill that Would Have Repealed Legal Presence Requirement for Maine Credentials,” June 4, 2009, <http://www.maine.gov/tools/whatsnew/index.php?topic=Gov+News&id=74192&cv=Article-2006>. Governor Baldacci states: “Improving the security of Maine credentials was part of an arrangement made last year with the federal Department of Homeland Security. Maine’s credentials fell short of federal security standards and put at risk the ability of Maine residents to use their driver’s license as acceptable identification to

board a commercial airliner or enter a federal building. If Maine were to repeal its current law, Maine residents could face secondary screening and be singled out for additional scrutiny every time they fly or go to a federal courthouse. That is unacceptable to me.” See also Associated Press, “Bill to undo Real ID-inspired law vetoed,” June 3, 2009.

³⁴ U.S. Department of Homeland Security, “Fact Sheet: Enhanced Driver’s Licenses (EDL),” December 5, 2007, <http://www.aila.org/content/default.aspx?bc=1016|6715|12053|26285|26297|23988>.

³⁵ **Washington:** Patrick Michels, “Enhanced Driver’s License Eases Border Crossing for Washington State Residents,” *Government Technology*, April 9, 2008, http://www.govtech.com/gt/279970?id=279970&full=1&story_pg=3. **New York:** <http://www.nysdmv.com/edl-main.htm>. **Vermont:** <http://dmv.vermont.gov/documents/MiscellaneousDocuments/EDLFAQ.pdf>. **Michigan:** Sue Schroder, “Cross the border with Michigan’s enhanced driver’s license” MLive.com, May 10, 2009, www.mlive.com/travel/index.ssf/2009/05/it_wasnt_exactly_the_border.html.

³⁶ Sen. Eliot Shapleigh (Texas legislator), “Governor Perry Harms Border Security and Texas Businesses by Denying Enhanced Driver’s License Program,” January 31, 2008, <http://shapleigh.org/news/1527-governor-perry-harms-border-security-and-texas-businesses-by-denying-enhanced-driver-s-license-program>.

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Repealing REAL ID? Rolling Back Driver's License Security

By Janice Kephart

Senior members of the Senate Committee on Homeland Security and Governmental Affairs are set to introduce the "Providing for Additional Security in States' Identification Act of 2009," also known as the PASS ID Act.¹ This act would repeal the REAL ID Act of 2005, legislation aimed at ensuring that all states meet minimum driver's license security standards in order to enhance national security and driver safety, combat drug running, and better safeguard against identity theft and fraud. While no state must comply, the 30 or so states that are choosing to actively meet REAL ID minimum standards are helping make America less vulnerable. Opponents critical of REAL ID provisions have painted the law as an affront to privacy and states' rights, but the reality is that REAL ID is the appropriate means by which to maintain liberty and security. Congress should preserve REAL ID, fund it adequately, and take steps to ensure its full implementation.

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