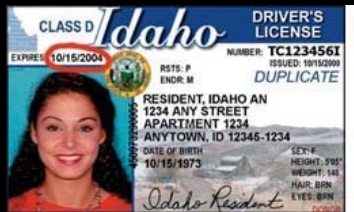


The Real ID Act:

A Real Nightmare!

Barry Steinhardt, Director
ACLU Technology & Liberty Program





What Is Real ID?

- Federalizes state driver's licenses and identity cards
- “Voluntary” – but if a state does not comply with standards, their IDs will not be accepted by the federal government, including:
 - For airline flights
 - For access to federal facilities
 - Any other purposes set by DHS



Real ID's Standards

- Card data elements & security features
- A “Machine Readable Zone” (MRZ)
- A 50-state interlinked database
- “Breeder document” standards
- Verification of documents
- Other administrative requirements

Card data elements

- Full legal name
- Date of Birth
- Gender
- DL or ID card number
- Digital photograph
- Principal residence address
- Signature
- Physical security features
- MRZ

Breeder document standards

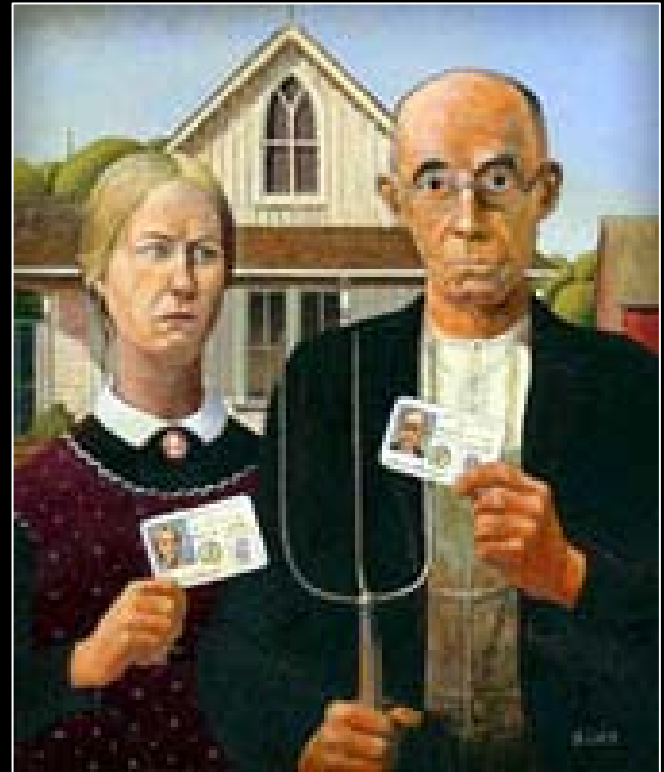
- Proof of identity
- Proof of date of birth
- Proof of SSN or non-eligibility
- Proof of residence address
- Proof of lawful status or citizenship
- No foreign documents accepted except passports

Verification of Documents

DMV must verify with the issuing entity the “issuance, validity, and completeness” of each breeder document. No way to do this for birth certificates.

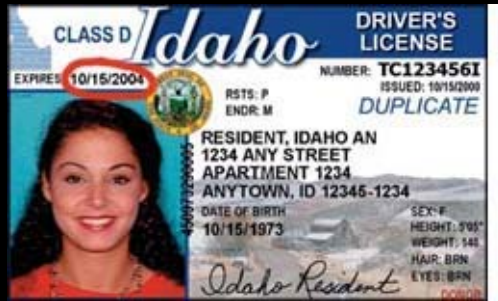
Impact on Privacy

- National ID
- Single Interlinked Database
- Machine Readable Zone



The Hartford Courant, October 30, 2001

REAL ID /National ID Card



Real ID is a National ID

- Uniform standards make state-by-state differences cosmetic
- Requirement that ID card be shown for travel makes it an internal passport (not currently required by law)
- Will be required for an expanding set of purposes, based on discretion of DHS

Phony Security

- Identity ⌚ Intentionality
- 9/11 hijackers would have been able to obtain Real IDs
- Real ID *decreases* security by exposing us all to identity theft
- If a national ID is such a great idea, why not debate it on its merits?

Single Interlinked Database

§ “[States shall] Provide electronic access to all other States to information contained in the motor vehicle database of the State.” (sec. 202, d. 12)

- Database will contain:
 - All data fields on the card
 - Driver’s history (points, violations, etc.)
 - More? Danger of mission creep

Single Interlinked Database

- Consolidating data threatens privacy
- Creates the infrastructure for greater surveillance
- Desire to combine information from other databases (ATS, etc.)
- Database would be a one-stop shop for identity thieves
- No way to challenge what's in the database

Machine Readable Zone (MRZ)

- 2-D Barcode
- Reinforces national ID
- Data can be easily read, stored, shared
- Will lead to discrimination – a digital “scarlet letter”
- Will be exploited by the private sector

For more information on the “Surveillance-Industrial Complex,” go to

www.aclu.org/surveillance.

Would be exploited by private sector

- MRZ makes private reading easy
- Data industry is hungry, and standing by
- No laws prevent use and abuse of data
- Scenarios are easy to foresee: Quickie Mart

See “The Surveillance-Industrial Complex”

www.aclu.org/surveillance



Federal Register

Friday,
March 9, 2007

Part II

Department of Homeland Security

6 CFR Part 37
Minimum Standards for Driver's Licenses
and Identification Cards Acceptable by
Federal Agencies for Official Purposes;
Proposed Rule

DHS Draft Regulations

- Released March 1, 2007
- Offers compliance deadline extension to December 31, 2009
- Estimates total cost of \$23 billion
- Relies on 'vaporware' databases
- Punts on all major privacy concerns

ACLU Scorecard finds DHS solves 9% of problems identified with the Act.

(see www.realnightmare.org/resources/106)

ACLU Analysis of the Regulations



New Federal Regulations Get an 'F' in Addressing Issues with the Real ID Act

DHS Rules Score Only 9 Percent On ACLU Scorecard

On March 1st, the Department of Homeland Security issued proposed Federal regulations for implementing the Real ID Act, the law that would federalize state driver's licenses and the motor vehicles departments that issue them and create the nation's first-ever de facto national identity card system.

In preparation for the issuance of the regulations, the ACLU prepared this Real ID Scorecard to assist in the systematic analysis of this complex legislation. It attempts to list all the issues that have been identified as concerns with Real ID by a variety of parties, including privacy activists, domestic violence victims, anti-government conservatives, religious leaders, and DMV administrators.

The Scorecard shows that the regulations utterly fail to remedy the problems with Real ID. Of the 56 issues listed, the regulations passed 5 (9 percent), scored an incomplete on 9 (16 percent), and failed the rest.

9% Pass

16% Incomplete

75% FAIL

<input type="checkbox"/> PASS <input checked="" type="checkbox"/> FAIL <input type="checkbox"/> INC	<p>Inadequacies in existing verification systems. An additional verification problem is that DMVs report that existing database such as SAVE (for verifying immigration status) would be inadequate for Real ID purposes either because they are expensive, inaccurate, or do not provide a timely response. (<i>Motor Vehicle Administrators Survey</i>) The regulations fail to address this issue except in a cursory fashion. The fact is that many verification databases that do exist (such as SAVE and SSOLV) are incomplete, inaccurate and so far unable to perform the functions required by Real ID (pg 10,832).</p>
<input type="checkbox"/> PASS <input type="checkbox"/> FAIL <input checked="" type="checkbox"/> INC	<p>Verification cannot be compelled. The act requires DMVs to authenticate source documents with issuing entities (such as address checks from public utility companies). Because that process will impose substantial burdens on verifying entities it may be met with resistance. However state DMVs have no power to compel or reward compliance. The regulations circumvent this problem by stating that, in direct contradiction to the statute, DMVs won't have to verify addresses with the issuing agency. ("The proposed regulation would require States to establish a written policy identifying acceptable documents and how, or if, they will be independently validated or verified." [p. 10,831]). However, they still require documents like birth certificates to be verified even though there is no existing database of birth certificates from all 50 states.</p>
<input type="checkbox"/> PASS <input checked="" type="checkbox"/> FAIL <input type="checkbox"/> INC	<p>Investigations into Social Security Numbers. States are required to verify that an individual has a valid social security number – and requires that "[i]n 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." However it is not clear what "appropriate action" entails nor do state officials have the authority to change the Social Security database. (<i>Real Burdens,</i> "Motor Vehicle Administrators Survey") The regulations do not provide any guidance for states on this issue, simply stating, "In the event of a non-match with SSA, a DMV must not issue a driver's license or identification card to an applicant until the information verifies with SSA's database." (p. 10,852)</p>
<input type="checkbox"/> PASS <input checked="" type="checkbox"/> FAIL <input type="checkbox"/> INC	<p>Document storage. The act requires storage of electronic copies of source documents for 10 years or paper copies for seven years. DMVs lack the equipment and storage space for document retention. DMVs report that this will have a major impact on their operations – requiring additional staff, new equipment, policy changes, training, the remodeling or redesign of offices, and computer software, development, and storage costs. (<i>Real Costs,</i> "Motor Vehicle Administrators Survey") The regulations affirm this requirement and estimate the cost of data systems and information technology at \$1.4 billion.</p>

\$11 Billion and Growing

September 2006

National Impact Analysis from:

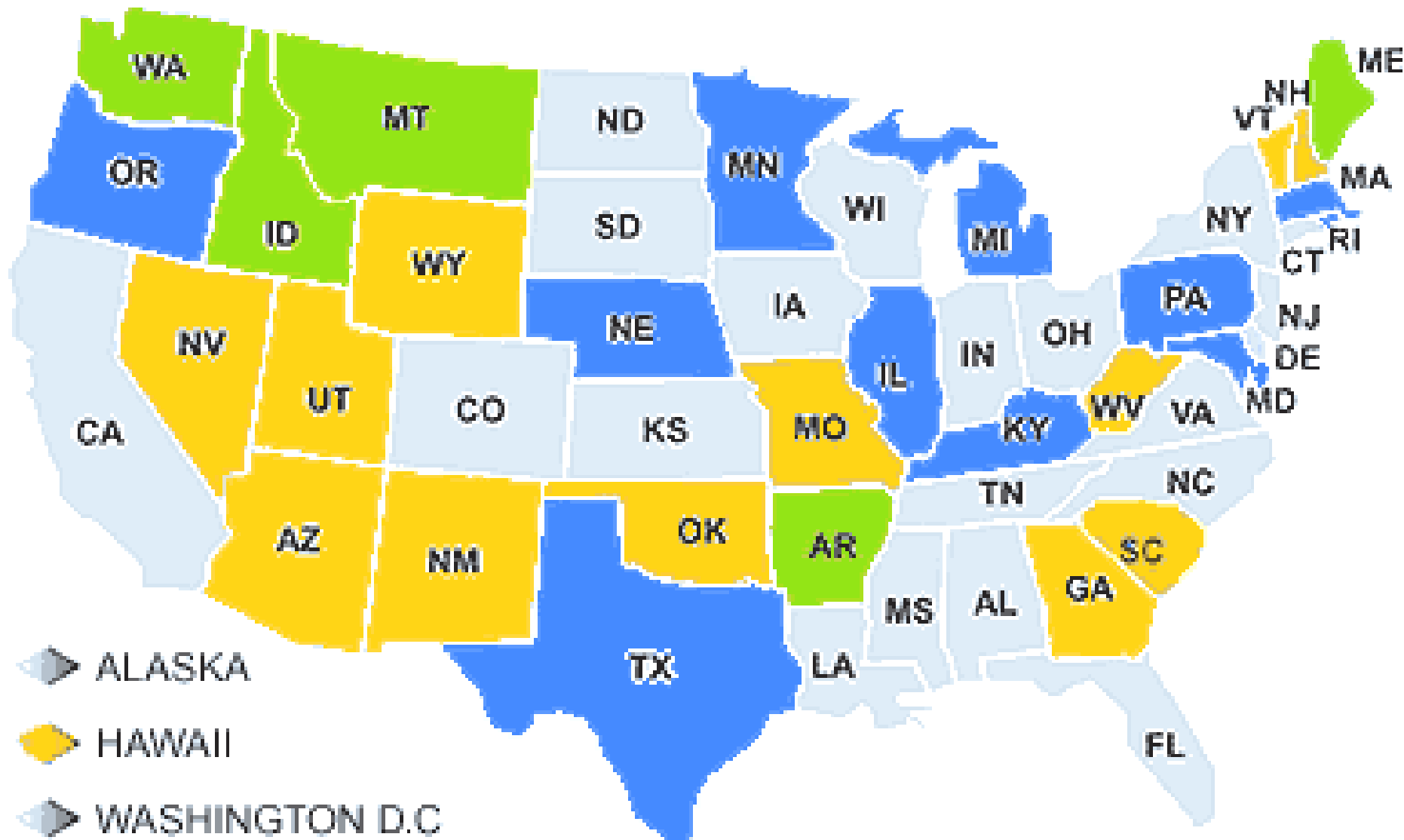


DHS NPRM

23 Billion Dollars

A Massive Unfunded Mandate

- Cost to the States: \$14.6 billion
- Cost to Individuals: \$7.62 billion
- Fees for a license: \$100 +
- Total funds appropriated by the Federal Government: \$40 million



State with Statute or Resolution:

- Enacted
- Passed One Chamber
- Introduced

Maine Joint Order

(SP113: enacted 1/25/07)

- *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...*

Montana Statute

(HB 287: passed Senate and House unanimously;
Governor will sign Tuesday, 4/17)

- “...the purpose of the legislature in enacting this act is to refuse 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...”
- “ [Real ID] is inimical to the security and wellbeing on the people of Montana...”
- “The state of Montana will not participate in the implementation of the Real ID Act of 2005. The department, including the motor vehicle division of the department, is directed not to implement the provisions of the Real ID Act of 2005 and to report to the governor any attempts by agencies or agents of the US department of homeland security to secure the implementation of the Real ID Act of 2005 through the operations of that division and department.”

Federal Legislation

- “Identification Security Enhancement Act”
- Sponsors: Akaka (D-HI) and Sununu (R-NH) in Senate; Allen (D-ME) in House
- Repeals Title II of the Real ID Act of 2005
- Reinstates negotiated rulemaking process
- Sets limits on rulemaking that protect privacy and offer states flexibility.
- Appropriates \$300 million a year from 2007 to 2013.

www.RealNightmare.org

