The Real ID Act: A Real Nightmare!

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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 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
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)
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
$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
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