

# The REAL ID

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# Real ID

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# History of the Real ID

When the 9/11 Commission issued its final report, it suggested that:

*“Secure identification should begin in the United States. The federal government should set standards for the issuance of birth certificates and sources of identification, such as driver's licenses. Fraud in identification documents is no longer just a problem of theft. At many entry points to vulnerable facilities, including gates for boarding aircraft, sources of identification are the last opportunity to ensure that people are who they say they are and to check whether they are terrorists” (73 FR 5273).*

# History of the Real ID

## Intelligence Reform and Terrorism Prevention Act of 2004

- Enacted December 17, 2004 (P.L. 108-458).
- Implemented 9/11 Commission recommendations.
- Established a negotiated rulemaking process to establish federal standards for state-issued DL and ID cards..

## The Real ID Act of 2005

- Enacted May 11, 2005 (P.L. 109-13).
- Added to an emergency supplemental spending bill.
- Terminated negotiated rulemaking.
- Established prescriptive federal standards for state-issued DL and ID cards.

# History of the Real ID

## What is the Real ID?

A law that requires states to adopt new federal standards for DL and ID cards by May 11, 2008, or the federal government will not recognize a state's DL and ID cards for federal purposes. This includes:

- Boarding a commercial aircraft
- Entering federal buildings
- Entering nuclear power plants
- Any other purposes that the Secretary determines

Final Rules were published in the Federal Register on Jan. 29, 2008.

# Real ID: Select Requirements

All state-issued DL and ID cards must meet REAL ID requirements by Dec. 1, 2017 in order to be accepted for federal purposes.

- By Dec. 1, 2013 for individuals born after Dec. 1, 1964; and
- By Dec. 1, 2017 for individuals born before Dec. 1, 1964.

# Real ID: Select Federal Standards

Requires states to:

- Adopt requirements for DL and ID card design.
- Retain copies of source documents.
- Issue non-conforming DL and ID cards with clear physical indicators--a unique design or color indicator-- that it cannot be used for a federal purpose.
- Issue temporary or limited-term license to all individuals with temporary lawful status and tie the license validity to the end of the lawful status.

# Real ID: Select Federal Standards

Requires states to:

- Ensure the physical security of locations where DL and ID cards are produced and the security of document materials.
- Conduct name-based and fingerprint-based criminal history and employment eligibility checks on employees in covered positions.
- Subject each applicant to a full facial digital photograph and retain the image.
- Electronically verify the validity of the identity documents.

# Real ID: Deadlines for State Compliance

What happened to the May 11, 2008 deadline?

- Request for an initial extension by March 31, 2008.
  - All 56 U.S. licensing jurisdictions were granted an extension, which expires December 31, 2009.
- By October 11, 2009 states can request a second extension until May 10, 2011 by submitting a checklist demonstrating material compliance by Jan. 1, 2010. (See 18 Interim Benchmarks)
- States must be fully compliant on or before May 11, 2011.

# Federal Funding

The Final Regulations estimated the cost to states at **\$3.99 billion over 10 years.**

- \$78,875,000 to 48 U.S. licensing jurisdictions (competitive).  
Pennsylvania's allocation: \$2,042,800
- \$4,000,000 to the Commonwealth of Kentucky to continue a pilot project already underway to test a birth records verification software.
- \$3,000,000 to Kentucky for Vital Events Verifications State Project Grant that will provide all states the electronic capability to verify birth records.
- \$48,575,000 in FY 2009 to states (formula).  
Pennsylvania's allocation: \$1,060,774

# State Legislative Activity

## Enacted Anti-REAL ID Statutes

AK, AZ, ID, LA, ME, MT, NH, OK, SC: prohibits implementation

WA: Prohibits implementation unless changes made regarding privacy and funding.

VA: Prohibits implementation unless if it compromises the economic privacy or the biometric data or samples of any state resident.

GA: Authorizes the governor to delay compliance unless DHS expressly guarantees through defined safeguards that the act will not violate the economic or biological sanctity of any citizen of the state of Georgia.

## Executive Order to prohibit implementation

MN - Prohibits the commissioner of public safety from implementing the Real ID before June 1, 2009, unless implementation is authorized by the legislature.

## Created Alternative DL/ID

AR

## Enacted Specific Statutes to Implement

IN, NV, OH, UT, WI

# Congressional Activity: 110<sup>th</sup> Congress

## **Senators Akaka (HI), Sununu (NH) – S. 717**

- Repealed the Real ID and replaces it with a negotiated rulemaking process.
- Provided for a specific authorization.
- Provided for additional privacy protections.
- Co-sponsors in the 110<sup>th</sup> Congress - Senators Alexander (TN), Kerry (MA), McCaskill (MO), Leahy (VT), Tester (MT) and Baucus (MT).

## **Senator Collins (ME) – S. 563**

- Extended the implementation deadline.
- Ensured electronic verification systems are available prior to states being required to use them.
- Established a “post” draft rule negotiated rule making committee.

## **Congressman Allen (ME) – H.R. 1117**

- Repealed the Real ID and replaces it with a negotiated rulemaking process.
- Provided for a specific authorization.
- Provided for additional privacy protections.
- Had 41 co-sponsors, including Representatives Carney and Murtha.

# Congressional Activity: 111<sup>th</sup> Congress



# NCSL Policy

## NCSL Policy

*NCSL therefore calls on Congress to repeal the Real ID Act and reinstitute the negotiated rulemaking process created under the Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458). NCSL also calls on Congress and the Administration to fully fund the final requirements mandated on states as a result of the negotiated rulemaking.*

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