

Real ID Act of 2005

ACLU, April 2013 Update

The Real ID Act prohibits federal agencies from accepting an individual's state drivers' license or state identification card as proof of ID for three specifically enumerated federal purposes, unless the state follows federally prescribed protocols in issuing and renewing these documents.

Federal Action

Real ID will never be strictly enforced by the federal government. Any attempt to fully conform to the law in California would be a waste of taxpayer funds and an unnecessary violation of citizens' privacy.

As the ACLU wrote to the Department of Homeland Security, "Compliance with the Real ID Act is currently statutorily barred in 15 states and the statute has been rejected in at least 25 states. This state rebellion has led [Department of Homeland Security] DHS to postpone implementation of the statute repeatedly. Nor does DHS have any effective tools for inducing state compliance in the future. Under Real ID, DHS's only remedy for addressing non-compliant states is to deny the citizens of those states the right to use their drivers' licenses to board airplanes or enter federal facilities. Because DHS has rightly recognized that it cannot possibly paralyze the air transportation system or deny tens of millions of Americans the right to fly, it has chosen to endlessly postpone implementation of the Act. In light of these facts, new information collection provisions are unnecessary."ⁱ

Major Concerns

Privacy and Identity Theft: The Act creates the United States' first-ever national identity card system.

National IDs threaten privacy by consolidating personal data and documents in government databases that can be accessed by hundreds of thousands employees and hackers determined to commit identity theft.

Cost: Additional identity verification and security measures will impose a steep unfunded mandate, increasing the cost of running the Department of Motor Vehicles and to CA citizens by hundreds of millions of dollars. .

False Security: People intent on committing an act of terrorism will not be deterred by requiring proof of their identities.

Federalism: Should the federal government tell California and the other states how to run their driver identification programs? Shouldn't the federal government pay for its mandates?

Current Status

In December 2012, the Department of Homeland Security (DHS) determined that only thirteen states have met the standards of the REAL ID Act of 2005 ("Act") for driver's licenses and identification cards granted yet another temporary deferment for all other states and territories. DHS stayed until further notice the date by which states are required to demonstrate material compliance with Real ID. ⁱⁱ

Fiscal Impact

National Costs: DHS scaled back its cost estimate to the states from \$23.1 billion to about \$9.9 billion and then to \$4 billion to implement Real ID, significantly less than the \$11 billion over five years estimate derived from a nationwide survey by the National Governor's Association, the National Conference of State Legislatures, and AAMVA. ⁱⁱⁱ The DHS estimates seem to rely on tenuous assumptions and fuzzy math. ^{iv}

California Costs: California DMV estimates that the cost to implement Real ID over 8 years will be almost \$150 million. ^v However, using Office of Management and Budget (OMB) figures, the estimated costs are significantly higher. California's share of the costs to the **state** (based on 10.7% of the country's population) is

approximately \$425 million. In addition, estimated costs using OMB figures to California's **citizens** would exceed \$580 million.^{vi}

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ⁱ http://www.aclu.org/files/assets/real_id_comments_to_dhs_november_2011.pdf

ⁱⁱ <http://www.dhs.gov/news/2012/12/20/dhs-determines-13-states-meet-real-id-standards>

ⁱⁱⁱ http://www.lao.ca.gov/analysis_2008/transportation/trans_anl08008.aspx

^{iv} <http://www.aclu.org/national-security/fuzzy-math-and-real-cost-real-id>

^v http://dmv.ca.gov/realid/Assessment_REALID_Act_Federal_Regulations_internetversion.pdf at 5-4

^{vi} http://dmv.ca.gov/realid/Assessment_REALID_Act_Federal_Regulations_internetversion.pdf at 3-35.