



February 7, 2008

The Honorable Samuel H. Rohrer  
Pennsylvania House of Representatives  
House Box 202128  
Harrisburg, PA 17120-2128

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The Honorable Babette Josephs  
Pennsylvania House of Representatives  
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Caroline Fredrickson  
DIRECTOR

Dear Representative Rohrer and Representative Josephs,

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On behalf of the American Civil Liberties Union, a non-partisan organization with hundreds of thousands of activists and members and 53 affiliates nationwide, we commend you for leading the fight against the Real ID Act in Pennsylvania. We congratulate you for introducing House Bill 1351 which now has 73 cosponsors, both Democrats and Republicans.

OFFICERS AND DIRECTORS  
NADINE STROSSEN  
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EXECUTIVE DIRECTOR

Since its enactment, the Real ID Act has troubled people across the political spectrum. It was enacted through procedural trickery out of keeping with the spirit of democratic process vital for such a sweeping measure. It imposes substantial burdens on the states – currently estimated by the Department of Homeland Security (“DHS”) to total a minimum of \$9.9 billion – providing minimal federal funding, amounts to a hidden tax increase, invades everyone’s privacy, and embodies the worst excesses of bureaucratic government.

RICHARD ZACKS  
TREASURER

On January 11, 2008, DHS issued its final regulations for implementing Real ID. The results of two and a half years of deliberations reveal barely any attempt to deal with the hard issues presented by the statute, or any improvement over the proposed regulations that received over 21,000 public comments after their release in March 2007. DHS failed to respond to the legitimate concerns of interested parties and employed highly questionable assumptions and fuzzy math in order to bring down its original cost estimate of \$23 billion. The resulting final regulations are nearly impossible to implement.

A grassroots rebellion against Real ID is currently sweeping the states. 17 states passed anti-Real ID bills or resolutions in their legislatures last year, and 14 states currently have such bills pending. Of the 17 states, seven, Georgia, Maine, Montana, New Hampshire, Oklahoma, South Carolina and Washington passed binding legislation prohibiting the state from participating in any implementation of the Real ID Act. The recent publishing of the unworkable Real ID regulations by the Department of Homeland Security has only added fuel to the anti-Real ID fire.

The fundamental problem with Real ID is that it imposes the United States' first-ever national identity card system. The danger of a National identity card is greatly exacerbated by the huge strides that information technology has made in recent decades. National identity cards would violate privacy by helping to consolidate data and facilitate tracking. The end result could be a situation where citizens' movements inside their own country are monitored and recorded through these "internal passports." These problems cannot be solved by regulation or by tinkering around the edges of Real ID. Instead, the entire unworkable system should be scrapped and replaced with a system that does not endanger Americans' fundamental freedoms.

In addition to the fact that the Real ID Act establishes the first true National identity card system, it creates serious new threats to personal privacy. The Act mandates significant changes to the amount and type of sensitive, personally identifiable information states will obtain, store and share about each and every applicant for an ID card. These mandates will likely lead to rampant identity theft and significant invasions of personal privacy.

Real ID amounts to a \$9.9 billion unfunded mandate, and imposes an enormous new administrative burden on individuals and the states. The expense of implementing Real ID will be borne by individuals through tax or fee increases. In order to implement the Real ID Act, states will have to defer other desperately needed transportation initiatives. State administrators, governors, and advocates have been warning about the disruption and chaos that actual implementation of Real ID will likely bring. These new burdens include longer wait times and service times at DMVs, as well as the time necessary to obtain new source documents, which some citizens may not have access to in the first place.

Real ID also violates several constitutional provisions. The First Amendment-protected Free Exercise of Religion is burdened for certain religious minorities by requiring digital photographs on each license and by requiring citizens to have a Social Security number in order to obtain a license. The Equal Protection and Due Process Clauses are violated for several classes of lawful residents because they are omitted from the categories of citizens and lawful residents who may obtain either a regular or temporary license. In addition, Real ID places burdens on the

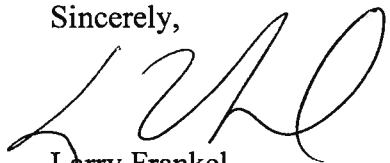
constitutionally protected right to travel, the First Amendment-protected Right of Assembly, and the First Amendment-protected Right to Petition One's Government for Redress. Unfortunately, the rigid statutory language of the Act does not provide any regulatory flexibility.

Finally, the entire Real ID Act rests on the faulty premise that identity-based security is a useful tool for combating terrorism. The fact is that identity-based security does not work to stop terrorists. Knowing a terrorist's name, phone number, and Social Security number will not by itself prevent any acts of terrorism. In fact, Real ID makes other security problems worse. The single interlinked database of drivers' personal information mandated by the Real ID Act will be an irresistible honey pot for identity thieves. Further, the common machine-readable component and common data elements on the physical card will allow private entities to scan, store, and sell sensitive information.

As an alternative to Real ID, U.S. Senators Akaka (D-HI) and Sununu (R-NH), have introduced S. 717, the Identification Security Enhancement Act of 2007 to address these problems by repealing Title II of the Real ID Act and restoring section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004.<sup>1</sup> S. 717 (a version of which, H.R. 1117, is also pending in the U.S. House of Representatives) would offer Americans a secure form of identification well before Real ID would go into effect, while securing drivers' personal information, protecting privacy, and upholding the states' ability to determine the rules governing driver's licenses.

For the above reasons, the ACLU formally opposes the Real ID Act. We applaud your efforts in resisting demands by the Federal Government to comply, and urge you to oppose all legislation in your state containing provisions that would fund Real ID Act implementation or require individuals to possess or present a Real ID Act-compliant license. We thank you for your commitment to your constituents' privacy and civil liberties and hope you will help to avert the real nightmare that is Real ID.

Sincerely,



Larry Frankel  
State Legislative Director, ACLU

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<sup>1</sup> Section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004 created a negotiated rulemaking under the Administrative Procedures Act and began a process that was to set new drivers licensing standards for states by September of 2005.