



Countdown to REAL ID (May 11, 2008)

70 days, 15 hours, 12 minutes, 53 seconds

On January 11, 2008, the U.S. Department of Homeland Security (DHS) released the final regulations to implement the requirements of the Real ID. The release of the final regulations is a mere 120 days prior to the implementation deadline established in the Real ID Act. DHS estimates the costs for states to implement the Real ID will not exceed \$3.9 billion.

On May 11, 2008, state driver's licenses and identification cards will not be accepted for federal purposes unless DHS determines a state is compliant with the Real ID or a state has been approved for an extension by DHS. States will have until March 31, 2008 to seek an initial extension of the Real ID compliance date.

According to a study conducted by NCSL, the National Governors Association and the American Association of Motor Vehicle Administrators, the act will cost states more than \$11 billion to implement over five years and will have a major impact on services to the public.

To date, Congress has appropriated only \$90 million to assist states with implementation of the Real ID, of which only \$6 million has been obligated. The President's FY 2009 budget proposal included \$50 million for federal verification system development and connectivity support. The \$50 million state-focused Real ID grant program created in FY2008 is zeroed out in favor of a new \$110 million National Security and Terrorism Prevention Grant program.

Real ID: Federal Issues

- [Full Text of the Act](#)
- [History of the REAL ID Act](#)
- [Related Federal Legislation](#)
- [REAL ID Testimony and Statements](#)
- [NCSL Policy on the Real ID Act](#)
- [DHS Real ID Grant Guidance](#)
- [NEW DHS Final Regulations to Implement the Real ID](#)
- [NEW DHS Privacy Impact Assessment on the Final Regulations](#)
- [NEW Legislators, Governors Respond to Release of Real ID Regulations](#)
- [NEW NCSL Analysis on DHS Final Regulations to Implement the Real ID](#)



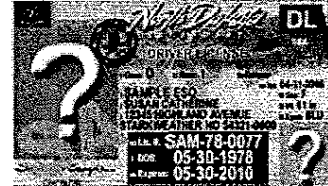
Real ID: State Issues

- [NEW Database of State Legislation](#)
- [Costs to the States](#)
- [Real ID Act: National Impact Analysis \(September 2006\)](#)
- [REAL ID Testimony and Statements](#)



Real ID: Web Resources

- [National Governors Association](#)
- [American Association of Motor Vehicle Administrators](#)
- [U.S. Department of Homeland Security](#)
- [National Commission on Terrorist Attacks upon the United States \(9-11 Commission\)](#)
- [U.S. Senate Committee on Homeland Security and Government Affairs](#)
- [U.S. House Committee on the Judiciary](#)



Questions About REAL ID

- realid@ncsl.org

The Latest on REAL ID

- [Database of State Legislation](#)
- [NCSL Press Releases](#)
- [NCSL Real ID Analysis](#)
- [Real ID in the News](#)
- [DHS Grant Guidance on the Real Grant Program](#)
- [NCSL Policy on the Real ID](#)
- [NCSL Analysis on DHS Final Regulations to Implement the Real ID](#)
- [DHS Final Regulations to Implement the Real ID](#)

Related NCSL Committees

- [NCSL Budgets and Revenue Committee](#)
- [NCSL Transportation Committee](#)
- [NCSL Executive Committee Task Force on Homeland Security](#)



American Association of
Motor Vehicle Administrators

FOR IMMEDIATE RELEASE
January 11, 2008

NGA Contact: Jodi Omear, 202-624-5301; 703-474-2668
NCSL Contact: Michelle Blackston, 202-624-8667
AAMVA Contact: Jason King, 703-908-8287

STATE GROUPS ACKNOWLEDGE FINAL REAL ID REGULATIONS

WASHINGTON—With just 120 days before the implementation deadline, the Department of Homeland Security (DHS) today released final Real ID regulations. According to the National Governors Association (NGA), the National Conference of State Legislatures (NCSL) and the American Association of Motor Vehicle Administrators (AAMVA), their members now have the ability to thoroughly evaluate the new national mandate and what it means for states and citizens.

“State leaders are dedicated to protecting our citizens and share a strong commitment to ensuring the integrity and security of their driver’s license systems,” said NGA Executive Director Raymond C. Scheppach. “Finalizing these regulations was a necessary step to allow states to determine whether the act can be implemented in a cost-effective and feasible manner.”

Governors, state legislators and motor vehicle administrators are pleased that many of the regulations seem to reflect comments and recommendations submitted by the three groups to DHS, including extending compliance deadlines and giving states flexibility to manage their systems and make them more secure. DHS also recognized that the implementation cost was an issue by making changes to reduce costs to states. Their estimate remains significant at \$3.9 billion. To date, however, Congress has appropriated less than 3 percent of the projected costs to assist states.

“Together, we initially estimated Real ID would cost states more than \$11 billion. These regulations offer states some flexibility that may tame those costs,” said William T. Pound, NCSL executive director. “Still, the fact remains that the Administration has not asked Congress to fund state costs, and Congress has only provided states \$90 million. State legislators have to balance budgets and make difficult choices among many competing priorities. These regulations are federal standards and deserve federal funds.”

The three national organizations plan to continue to review the rule and meet with state stakeholders to determine the impact of the regulations.

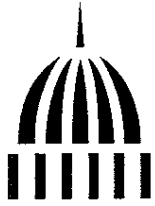
“Through an extensive process, our membership used their technical expertise in issuing drivers’ licenses to provide DHS with a broad range of concerns and suggestions,” said Neil D. Schuster, AAMVA president and CEO. “We are encouraged that the agency took these into account when crafting the final rule. We will conduct an in-depth analysis of the final rule to provide the best possible information and assistance to our members.”

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Founded in 1908, the National Governors Association (NGA) is the collective voice of the nation’s governors and one of Washington, D.C.’s most respected public policy organizations. Its members are the governors of the 50 states, three territories and two commonwealths. NGA provides governors and their senior staff members with services that range from representing states on Capitol Hill and before the Administration on key federal issues to developing and implementing innovative solutions to public policy challenges through the NGA Center for Best Practices. For more information, visit www.nga.org.

The National Conference of State Legislatures is the bipartisan organization that serves the legislators and staff of the states, commonwealths and territories. It provides research, technical assistance and opportunities for policymakers to exchange ideas on the most pressing state issues and is an effective and respected advocate for the interests of the states in the American federal system. For more information, visit www.ncsl.org.

The American Association of Motor Vehicle Administrators (AAMVA) is a nonprofit organization committed to enhancing safety and security through motor vehicle administration and law enforcement. AAMVA develops model programs in motor vehicle administration, law enforcement and highway safety. The association's programs encourage uniformity and reciprocity among the states and provinces, and liaisons with other levels of government and the private sector. Founded in 1933, AAMVA represents the state and provincial officials in the United States and Canada who administer and enforce motor vehicle laws.



NCSL NEWS

NATIONAL CONFERENCE OF STATE LEGISLATURES

WILLIAM T. POUND, EXECUTIVE DIRECTOR

Date: January 11, 2008

Contact: Michelle Blackston 202-624-8667

REAL ID State Activity

Based on NCSL's REAL ID state legislation database, available at www.ncsl.org/realid.

Overall Legislative Activity

- In 2008 4 states have prefiled or introduced 4 bills or resolutions related to REAL ID.
- In 2007, 44 states considered approximately 145 bills or resolutions related to REAL ID.
- 25 states passed 37 bills or resolutions

Anti-REAL ID Legislation

- Legislative bodies in 21 states have passed legislation in opposition to REAL ID.

States that Prohibit REAL ID Compliance or "opt out" of REAL ID

- 6 states prohibit compliance with REAL ID by statute. Those states are Maine, Montana, New Hampshire, Oklahoma, South Carolina and Washington. All six states passed their laws in 2007.

Other State Legislation Opposed to REAL ID

- Idaho's 2008 appropriation bill included a line item appropriating \$0 for REAL ID implementation.
- Legislative bodies in 15 states passed resolutions or memorials that urged Congress to amend or repeal REAL ID or indicated the state's intent to not comply. Those states are Arkansas, Arizona, Colorado, Hawaii, Idaho, Illinois, Missouri, Michigan, Nebraska, North Dakota, Nevada, Pennsylvania, South Carolina, Tennessee and Utah.
- Georgia authorized its governor to delay REAL ID implementation if certain conditions are not met.

Compliance legislation

- Indiana and Nevada are the only two states that have passed bills intended to bring the state closer to compliance with REAL ID.
- Ohio passed a bill that directs the Director of the Department of Public Safety to request a time extension from DHS for REAL ID compliance.
- Michigan passed a resolution that memorializes DHS and the State Department to establish pilot programs for compliance with REAL ID and WHTI.

Other Legislation

- Virginia's budget bill directs the Department of Motor Vehicles to direct motor vehicle license renewal transactions in a way that mitigates the effects of REAL ID on customer service. It also requires the DMV to retain nearly \$10 million for information technology initiatives and the implementation of REAL ID.
- Nevada passed a bill that authorizes spending for REAL ID compliance.
- Tennessee appropriated money for REAL ID implementation.

Denver
7700 East First Place, Denver, Colorado 80230
Phone 303.364.7700 Fax 303.364.7800
Website www.ncsl.org E mail info@ncsl.org

Washington
444 North Capitol Street, N.W. Suite 515
Washington, D.C. 20001
Phone 202.624.5400 Fax 202.737.1069

Information Alert

National Conference of State Legislatures
Office of State-Federal Relations

Real ID Regulations ...Finally *Updated February 12, 2008*

Brief 1

Deadlines, Definition of Official Purpose, Reenrollment, State Certification and Reporting, State Exceptions Process, and Funds

On January 11, 2008, the Department of Homeland Security (DHS) issued the long awaited final regulations on Real ID Act implementation, a mere **120 days before the May 11, 2008 deadline**. The regulations were printed in the *Federal Register* on January 29, 2008. The final regulations incorporate a number of recommendations made to DHS by NCSL, governors and motor vehicle administrators. However, DHS still estimates the cost of implementation to the states at \$3.99 billion.

Over the next week, NCSL will publish a series of briefs summarizing different sections of the regulations. In addition, this will include a comparison of the requirements to the recommendations included in the September 2006 report—*The Real ID: National Impact Analysis*—issued by NCSL, governors and motor vehicle administrators. Brief 2 will focus on Physical Security of DMV Facilities and Databases, and Employee and Applicant Background Checks.

A copy of the final regulations, the September 2006 report, and other resources on Real ID are available at: <http://www.ncsl.org/realid>

State Deadlines

In order for a state's driver's license (DL) or identification card (ID) to be accepted for federal purposes, a state must certify to DHS that the state is compliant with the requirements of the Real ID on or before May 11, 2008. Initially, state certification may take two forms:

- A state may certify that it fully complies with the requirements of the Real ID; **OR**
- A state may request an initial extension by **March 31, 2008**. DHS will notify states of the initial extension within 45 days or receipt of the state's request. The initial extension would expire on December 31, 2009.

States may request an additional extension until May 10, 2011, by submitting a Material Compliance Checklist (see *State Certification and Reporting* below), which requires states to indicate their level of compliance with the Real ID. States must file for the additional extension by October 11, 2009.

Additional extensions may be granted at the discretion of Secretary of Homeland.

A state-issued DL and ID will be accepted for federal purposes if a state has received an extension or the state is deemed fully compliant with the requirements of the Real ID.

Official Purpose

As recommended by NCSL, governors and motor vehicle administrators, the final regulations limit the "official purpose" of the Real ID to the uses expressly stated in the Act: accessing federal facilities, boarding commercial aircraft and entering nuclear power plants.

Reenrollment

A state-issued DL and ID must meet the requirements of the Real ID:

- By December 1, 2014 for individuals born after December 1, 1964; AND
- By December 1, 2017 for individuals born before December 1, 1964.

NCSL, governors and motor vehicle administrators had recommended DHS adopt a 10 year reenrollment period.

State Certification and Reporting

The final regulations create two levels of compliance for states prior to May 11, 2011: material compliance versus full compliance.

Under the material compliance threshold, a state must provide DHS with the status and operational date of state compliance with the Real ID. DHS will require states to submit a "Material Compliance Checklist." A state must be materially compliant with the requirements of the Real ID by January 1, 2010, to receive an additional extension to May 10, 2011 date (see *State Deadlines* above).

Under the full compliance threshold, a state must meet all the requirements of the Real ID OR "have a Real ID Program that DHS has determined to be comparable to the standards" of the Real ID. A state must certify that it meets these requirements at least 90 days prior to the effective date of full compliance.

States must submit the following to DHS for review to be deemed fully compliant with the Real ID:

- A certification by the highest level Executive official in the state overseeing the Department of Motor Vehicles that reads as follows: "I, [name and title (name certifying official), (position title) of the State (Commonwealth) of _____, do hereby certify that the State (Commonwealth), has implemented a program for issuing driver's licenses and identification cards in compliance with the requirements of the Real ID Act of 2005, as further defined in 6 CFR Part 37, and intends to remain in compliance with these regulations."
- A letter from the state Attorney General confirming the state has the legal authority to impose the requirements necessary to meet the standards established;
- A description of the states exception process and the state's waiver process (see below); and
- The state's security plan.

States will have to re-certify every three years and are subject to DHS review at any time. Under the final regulations, states must provide any reasonable information to DHS "pertinent to determining compliance," and permit DHS to "conduct inspections of any and all sites associated with the enrollment of applicants...production, manufacture, personalization and issuance of [DL] and [ID]."

Exceptions Process

NCSL, governors and motor vehicle administrators advocated for an exceptions process to address certain circumstances. Under the final regulations, states may use the exceptions process for individuals who have difficulties producing some of the required identification documents, such as proof of identity or date of birth, and must therefore rely upon other alternate documents.

Under the state's exception process, a state must:

- Make reasonable efforts to establish the authenticity of the alternate documents;
- Maintain a record that the exception process was used in the application process;
- Retain a copy or image of the alternate documents used in the application process in the same manner as for other source documents;
- Conduct a review of the state's exception process; and
- Provide DHS with a copy of the state's review of its exception process as part of the state's certification.

The exception process does not apply to precautions taken on behalf of state-issued DL and ID for federal, state and local officials, including criminal justice agencies that require safeguards due to official duties.

Funds

To date, Congress has appropriated only \$90 million to assist states with implementation of the Real ID, of which only \$9 million has been obligated. The President's FY 2006, FY 2007 and FY 2008 budget proposals did not include any funds to assist states with the implementation of the Real ID.

DHS will again enable states to use up to 20 percent of their State Homeland Security Grant Program (SHSGP) Funds for implementation of the Real ID. Under current law states are required to pass 80 percent of these funds to local governments, leaving only 20 percent for the states. This program received \$890 million in federal funds in FY 2008, which represented an increase over FY 2007 through the consolidation of the Law Enforcement Terrorism Prevention Program.

For more information contact NCSL staff Jeremy Meadows (Jeremy.Meadows@ncsl.org, 202-624-8664) or Garner Girthoffer (garner.girthoffer@ncsl.org; (202) 624-7753).