

The Coalition for A Secure Driver's License (CSDL) www.secure-license.org is a 501(c) (3) not-for-profit, crime prevention educational charity. Our activities include producing factual information addressing public safety and fraud prevention benefits of stronger identity authentication procedures and the issuance of counterfeit proof identity documents. CSDL undertakes research projects addressing best practices for DMVs, fraud detection and prosecution and related identity management topics.

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HB1587 (REAL ID Opponent) Argument: Individuals in complying states will be required to present DMV officials with a copy of their birth certificate, social security number, address, financial tax forms (W-2, 1099, etc).

The birth certificate, SSN and address requirement has been in place in Virginia for years. Look at the Virginia DMV web site!

Real ID does not require you to present financial tax forms to obtain a driver's license, the only way you would present a tax form would be if you chose to use it to prove residency within the state in lieu of other documents. Other ways to provide residency proof to the Virginia DMV include utility bills or a current and valid driver's license with your current address.

HB 1587 Argument: REAL ID regulations require that personal data to be available to all state DMV's for electronic verification across state lines.

While there has been much controversy about "a giant federal database" of driver license records, there is simply no part of Public Law 109-13 (REAL ID) that mandates creation of a federal database of driver's private data. Virginia will continue to own and control use of its own driver license data. The only data to be available will to other states will be an individual's name, age, DOB, and image to protect that individual against would-be imposters attempting to use YOUR name in other states to get driver's licenses.

This routing system of the database will be designed to protect the privacy of applicant information through controlled access of a *pointer system* which does not exchange private information but automatically verifies that the information requested is accurate.

Additionally, Benchmark 13 of the final regulations (which is part of the 18 total material compliance points in PL 109-13) requires the Virginia DMV to have a documented security plan addressing "*security for personally identifiable information, access controls to DMV records, physical security for facilities and card storage areas, an incident response plan and internal audit controls*"

HB 1587 Argument: Citizens would be subjected to the full legal name requirement and the rule would not provide exceptions for victims of domestic violence.

The REAL ID regulations are not indifferent to victims of domestic violence or other groups that require their identities concealed. § 37.17³ (page 5278 Federal Register, 1-29-08) of the final rule contains language that allows that

“an individual may establish his or her name with other documentation where State law or regulation permits, as long as the State maintains copies of the documentation... and maintains a record of both the recorded name and the full legal name on the identity document in a manner to be determined by the State.”

Likewise, §37.17(f)⁴ (page 5278 Federal Register, 1-29-08) allows applicants to have an alternative address on the license or card if the State permits it and either the State or Federal court demonstrates that the applicant’s address is entitled to be suppressed. The individual’s true address must be captured and stored in a secure manner in the Virginia DMV record systems while the alternate address would appear on the face of the card and in the Machine Readable Zone (MRZ).

HB1587 Argument: The Real ID act requires that data collected be stored on the Real ID card in a machine readable format.

Virginia’s driver’s license has had a machine readable format for more than ten years, to speed the time and improve the accuracy of highway patrol and other law enforcement personnel when addressing highway safety matters (Read – issuing tickets to speeding motorists!). The personal information in the MRZ is the same as on the face of the card and third parties already use this information to read the accuracy of the card in a variety of ways, one example is to gain admission into a bar. The alternative is to risk having a trooper enter the information wrong or further delaying a traffic stop.

§202(b)⁵ (page 5273 Federal Register, 1-29-08) of the REAL ID Act directs that REAL ID compliant cards contain only the following information in the MRZ: applicant’s full legal name, date of birth, and gender; driver’s license or identification card number; a digital photograph of the applicant; the applicant’s address of principal residence; and the applicant’s signature.

The Virginia DMV will also include internal control data in the MRZ – data that does not provide any additional information about the driver’s identity of the cardholder but will help provide inventory controls to reduce theft of materials or fraudulently issued licenses to illegal immigrants and criminals.

HB1587 Argument: REAL ID creates a National ID card.

Congress passed this law as a result of 9/11 Commission recommendation:

“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 drivers 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 to check whether they are terrorists.” – The 9/11 Commission Report, National Commission on Terrorist Attacks upon the United States, p. 390

PL109-13 establishes minimum standards for state driver’s license issuance. The regulations establish benchmarks, which are neither a floor nor a ceiling. If a state voluntarily elects not to comply with these standards, then federal airport inspectors and other security personnel know that state’s driver’s licenses are not reliable indicators of identity.

Standards exist for the quality of highway construction, for the safety requirements of the cars and trucks that use highways, and for the knowledge of highway safety laws for those obtaining licenses. PL109-13 (REAL ID) sets standards for the counterfeit resistance of the cards issued showing that the states meet the necessary benchmarks demonstrating that knowledge and for authenticating the identity of those who obtain driver’s licenses and state issued ID cards.

The REAL ID Act does NOT establish a national ID.

America has a national ID, which is the passport, is issued by an agency of the federal government which in fact relies on a giant federal data base. (That fact doesn’t seem to deter Americans from obtaining one to travel internationally) However, when the clerk at the liquor store or the bank teller wants to see proof of identity, the passport is usually a last resort. The question ‘*May I see some identification,*’ is most often answered by production of a driver license or state issued ID as the driver license has become the primary form of identification in the United States.

The regulations create minimum standards for driver license and ID card security and issuance process. Prior to REAL ID, there were no minimum standards.

HB1587 Argument: The Real ID will NOT significantly impact illegal immigrants from securing driver’s licenses or state ID’s because states can still issue non-Real ID compliant licenses and ID cards.

The DHS regulations state: *“A number of States issue or plan to issue licenses to individuals that cannot document lawful status. Other States are expected to allow individuals to hold both a driver's license and identification card. Finally, a number of States have evaluated or expressed interest in offering REAL IDs as an additional, voluntary license. ... Eight states currently issue licenses to undocumented immigrants and will--most likely--continue to do so. These States are: Michigan, Maryland, Hawaii, New Mexico, Oregon, Utah, Washington, and Maine.”*

§ 202 (d)(11) of the REAL ID Final Rule gives States the option of issuing non-Real ID complaint cards to applicants that cannot provide verifiable proof of lawful presence. *However those licenses must bear the marking ‘not for identification purposes.’* While the law allows States to that choose a multi-tier issuance system, they do so at their own risk.

HB 1587Argument: Individuals with proper ID can still present a threat of terrorism.

Although, DHS states that *“...the REAL ID rules cannot completely eliminate the possibility that an individual will commit an act of terrorism in the United States”* there is no way that ANY law can be created to rule out all possible terrorist threats.

REAL ID will be a valuable step in identifying criminals and terrorists in plain view. REAL ID will make it harder for terrorists and criminals to counterfeit documents such as a birth certificate or to use a false social security number to legally obtain a valid ID, or otherwise to use fraudulent documents for verification. The easiest way for terrorists to remain undetected is to alter their identity. By altering their identity, terrorists are able to continue their activities while remaining undetected by law enforcement officials.

Please do not hesitate to contact the Coalition for a Secure Driver's License at (202) 756-7746 or info@secure-license.org.