

NM POLITICAL REPORT

Gov signed the REAL ID bill, so what's next?

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When state lawmakers last month passed a bill establishing a two-tier driver's license system in New Mexico, many congratulated themselves for ending a years-long, contentious debate over driver's licenses for immigrants who are in the country illegally.

Gov. Susana Martinez made similar remarks on Tuesday when she signed the legislation, which will go into effect July 1.

But perhaps the key reason the Legislature passed the bill this year was to comply with a controversial federal law passed 11 years ago in the wake of the 9/11 terror attacks in 2001. Largely absent from the discussion was how compliance with various provisions in the law will impact New Mexico in future years.

The Real ID Act gives national standards on state identification cards in an effort to crackdown on fraud and identity theft. The law is one of the national security reforms that came out of recommendations from the 9/11 Commission.

Critics lament the law's potential chilling effect on privacy.

"It's essentially moving towards a national ID card," state Rep. Antonio "Moe" Maestas, D-Albuquerque, said in an interview.

Real ID established nearly 100 requirements that states need to follow in order to comply with the law. In the decade since it went into effect, not all states jumped on board. Seventeen states pushed back and passed laws opposing compliance with Real ID. The federal Department of Homeland Security, which enforces Real ID, has pushed back its deadlines for compliance numerous times—though the department rejected extensions for New Mexico and Washington State late last year.

Currently, DHS is enforcing only 18 requirements to deem states compliant with Real ID, which include making ID applicants undergo a facial image capture, sign under penalty of perjury they are not giving false information and require documentation for birth dates, legal status, address and Social Security number.

The question is whether and when DHS will start enforcing the other benchmarks.

“DHS came with a material compliance checklist,” Jim Harper, a senior fellow with the Cato Institute, libertarian Washington D.C. think tank, said in an interview. “That’s not full compliance with the law.”

One controversial benchmark that currently isn’t being enforced is a requirement that all states share driver’s license information in an interstate network. Currently just four states are compliant with Real ID share databases with each other.

“At some point later, DHS is going to come back and say New Mexico is not compliant until the state puts data into the [interstate] system,” Harper said. “That’s going to be the next step.”

The text of this part of the law is vague, reading that all states must “provide electronic access to all other states to information contained in the motor vehicle database of the state.” Harper warns that the language compels even states with two-tier systems to share all information in the interstate network.

For now, some state lawmakers don’t seem too concerned about how New Mexico will meet future compliance with future benchmarks.

“That sort of thing, that’s something I don’t get into,” Senate Minority Leader Stuart Ingle, R-Portales, said in an interview.

Ingle, a key player in the driver’s license legislation this year, said the lawmakers will “cross that bridge when we get there.”

“At some point, if it’s necessary, other things will come up and I don’t know if we can handle it administratively or if we’ll have to do kind of a change in some kind of a law,” Ingle said.

A spokesman with the state Taxation and Revenue Department, which will oversee implementation of the state’s compliance with Real ID, did not return a phone call or email seeking comment before press time.

A spokesman with the federal DHS referred *NM Political Report* to the department website’s frequently asked questions about Real ID, which says the law does not create a national identification card and gives states autonomy to maintain records and control “who gets access to those records and under what circumstances.”

Regardless of what the law’s impact will be here, Maestas laments that Real ID was really “never part of the debate” over the driver’s license issue.