Congress and the states should reject the national ID law

Jim Harper

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It hardly sounds like something that would happen in America, but state legislatures across the country are currently debating whether to put their residents into a national identity system. The Department of Homeland Security is working to break down state resistance to the REAL ID Act, which states have not implemented in its ten-plus years on the books.

States shouldn't move too quickly, though. Earlier this month, bills were introduced in the U.S. House and Senate to repeal REAL ID. For the good of Americans' security and privacy, states should continue to refuse, and Congress should repeal, the national ID law.

The hook in the REAL ID Act is simple. DHS can turn people away at TSA checkpoints if they are from states that aren't following federal identity card mandates. Several times over the last decade it has threatened to do so.

Last fall, once again, DHS bureaucrats menaced state governors and legislators with this threat, fanning rumors that the Transportation Security Administration would start refusing licenses and IDs from non-compliant states as early as January. But a week into the new year, DHS Secretary Jeh Johnson kicked REAL ID compliance down the road again, moving the deadline back two more years. Not coincidentally, this made REAL ID the next administration's problem.

But the gambit worked to a degree. In a number of states around the country, legislators are scurrying to do the federal government's bidding. If they obey federal mandates, they'll put uniform identity cards into the hands of drivers and ID card holders, and they'll submit data about their residents into a nationwide system for sharing drivers' personal information. But in many states, that's controversial.

Montana has been a leading state for refusing the federal government's national ID mandate. In 2008, under pressure to comply from the U.S. Department of Homeland Security, Governor Brian Schweitzer (D) refused to even ask for a deadline extension. Instead, Montana's attorney general sent the DHS a letter outlining the security features in Montana's driver's licenses. DHS

interpreted the letter as a request for extension and granted it. "I sent them a horse and if they want to call it a zebra, that's up to them," Schweitzer said at the time.

Montana's bipartisan congressional delegation has now introduced legislation to repeal REAL ID entirely. Senators Steve Daines (R) and Jon Tester (D) and Representative Ryan Zinke (R) put the bills in as a response to deadline pressure for federal ID mandates that DHS is leveling against their state. Elsewhere, though, states are considering steps that would lengthen lines at their DMVs, increase paperwork burdens, and raise costs of getting a driver's license.

Crucially, REAL ID compliance would not improve national security. It is often said that REAL ID responds to a 9/11 Commission recommendation, but the law repealed and replaced post-9/11 legislation that brought to together interested parties to examine standards for birth certificates and ID cards.

The 9/11 Commission devoted three-quarters of a page — under 300 words — to identity cards, articulating nowhere how a national ID would cost-effectively secure against terrorism, crime or illegal immigration. A recent USA Today editorial supporting REAL ID was more than twice as long as the 9/11 Commission's treatment of the subject.

REAL ID compliance would undermine Americans' security against identity fraud. The law requires digital copies of basic identity documents to be held in state databases, from which they could be stolen. The law requires states to share their driver databases with every other state, making the security of any state's data only as strong as the least secure state in the country.

By unifying all licenses and ID cards around a single, uniform standard, REAL ID would promote regular swiping and scanning of ID cards. When Americans entered buildings, bought beer or wine, picked up prescriptions, or cashed a check, data about them would go into databases already optimized for information sharing. Governments and corporations alike would have even more data about the comings and goings of ordinary, law-abiding Americans.

The American impulse to reject a national ID is the right one. It offers little national security while undercutting personal security and privacy. State compliance with REAL ID would put the Department of Homeland Security in charge of state licensing policy, empowering federal bureaucrats to dictate state priorities and spending in that area forevermore. Given that its costs outweigh its benefits, states should decline to comply with the national ID mandate, and Congress should repeal the REAL ID Act.

Jim Harper is a senior fellow at the Cato Institute.