

STATES FACE REAL ID DEADLINE



by Mickey McCarter

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36 states could face problems using licenses for tasks like boarding planes

The state of Ohio officially requested an extension for compliance with the REAL ID Act of 2005, confirmed the state's public safety director Friday, contributing to national concerns that the driver's licenses of many states could become unacceptable for federal purposes on Jan. 1, 2010.

Under REAL ID (Public Law 109-13), US states and territories must demonstrate material compliance with higher security standards for driver's licenses by Dec. 31 or else the federal government would decline to recognize that state's licenses as an acceptable identification for boarding aircraft, entering federal buildings, and other purposes.

States had until Dec. 1 to request an extension of the REAL ID deadline until May 2011, but many states--like Ohio--have found full interim compliance expensive and technically difficult.

Ohio Public Safety Director Cathy Collins-Taylor wrote to Homeland Security Secretary Janet Napolitano last week to say that her state has met 17 out of 18 interim benchmarks. Ohio could not meet the last benchmark because it could not afford the upgrades necessary to comply, Collins-Taylor said.

"The Ohio Department of Public Safety has made great strides in improving driver's license and identification card issuance processes and in improving identification security. We remain poised to continue to do so in the future. We strongly encourage DHS [the US Department of Homeland Security] to revise REAL ID policy so that states such as ours that are making strides with our procedures are not forced to commit to a policy that we simply cannot fund," Collins-Taylor wrote in her letter.

Ohio is far from the only state facing financial difficulties in complying with the REAL ID act, which Napolitano herself has called "an unfunded federal mandate."

The National Governors Association (NGA) wrote a letter Nov. 18 to congressional leaders to push for an alternative to the REAL ID Act known as the Providing for Additional Security in States' Identification Act (PASS ID) (S. 1261).

"Based on a survey of our states, we believe that as many as 36 states will not meet the requirements of REAL ID by the end of the year," Vermont Gov. James Douglas and West Virginia Gov. Joe Manchin wrote. "To avoid this disruption to our citizens, especially during the holiday travel period, Congress must pass" the PASS ID Act.

PASS ID would loosen state requirements to electronically authenticate supporting documents such as birth certificates used to apply for driver's licenses and establishes a fund program to help states pay for the cost of other technology upgrades. PASS ID, if passed by Congress, would replace REAL ID completely, recalibrating the deadlines for compliance with federal security standards for driver's licenses.

The Senate Homeland Security and Government Affairs Committee passed PASS ID, drafted by Napolitano and senators with the assistance of NGA, in July. It has stalled in the Senate since then.

Over the last several years, 13 state legislatures have passed laws forbidding the state's government from spending the funds to comply with REAL ID requirements, decrying them as obtrusive and expensive.

Although his state was one such state, Gov. Mark Sanford of South Carolina wrote to Napolitano Nov. 30 to ask DHS to continue to accept South Carolina's driver's licenses as identification for federal purposes.

South Carolina has made tremendous progress in upgrading the security of its driver's licenses to prevent the creation of counterfeit licenses and the issuance of licenses to ineligible applicants, Sanford said, but it was not measuring its progress against REAL ID requirements.

"Despite South Carolina's proactive steps to improve the security of our driver's licenses, I cannot authorize the implementation of REAL ID or confirm our state's compliance with its requirements in the future. As you know, South Carolina is one of 13 states that have enacted legislation that prevents the state from complying with REAL ID, and I am duty bound to comply with the laws of our state," Sanford wrote.

"Even though South Carolina cannot implement the REAL ID Act, we have established security protocols and procedures that are consistent with the intent of the REAL ID initiatives," he continued. "Therefore, we ask that our credentials continue to be used as acceptable identification documents for boarding planes as well as for other designated federal purposes. Penalizing citizens carrying South Carolina identification cards and licenses would neither be fair nor sensible when our credentialing process continues to be among the most secure in the nation and meets the intended outcomes of the REAL ID Act."

Democratic Sens. Jeff Bingaman and Tom Udall of New Mexico wrote to Napolitano on Nov. 30 to request a blanket extension for all states not in compliance with the interim benchmarks of REAL ID.

"The Department of Homeland Security has not indicated whether it will grant an extension, despite the fact that a majority of states are unlikely to be in compliance with the REAL ID Act," the senators said. "This is causing a great deal of anxiety for our constituents, who are seeing news reports that they will need a passport in order to fly on a commercial airline after the first of the year. Without assurances from your Department that a passport will not be necessary, many people may alter or cancel their travel plans. This uncertainty may also have a significant economic impact if the residents of non-compliant states decide not to fly or are unable to do so."

Many analysts predict that DHS will indeed issue a blanket waiver to permit the use of driver's licenses from non-compliant states to board airplanes and other purposes.

As Jim Harper, director of information policy studies at the CATO Institute, blogged, "there's no chance that the Department of Homeland Security will interfere with Americans' travel when its latest deadline for REAL ID compliance passes at the end of this month. As happened with the original deadline for states to implement the national ID, DHS will give out waivers to recalcitrant states instead of carrying out the threat of refusing to accept travelers' IDs at airports."



About the author:

eNewsletter Editor/Senior Washington Correspondent, is a journalist with more than a decade of experience in reporting on military affairs and information technology.

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