

New Mexico Lawmakers Seek Adoption of Real ID Standards

The Department of Homeland Security recently announced the state won't get another extension to comply with the Real ID Act, which was passed a decade ago.

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New Mexico could comply with the controversial federal Real ID Act — and not worry about residents being denied access to air travel or federal facilities — if the Legislature and governor adopt something similar to the driver's license compromise the state Senate passed earlier this year, members of the state's congressional delegation said Friday.

That legislation, which calls for a two-tiered licensing system that would still allow undocumented residents to drive legally, cleared the state Senate by a wide margin but died in the Republican-controlled House of Representatives.

In a joint statement, U.S. Sens. Tom Udall and Martin Heinrich, as well as U.S. Reps. Ben Ray Lujan and Michelle Lujan Grisham, responded to the federal Department of Homeland Security's recent announcement that New Mexico won't get another extension of time to comply with the Real ID Act, which was passed a decade ago in response to the terrorist attacks of 2001.

The four members of Congress who issued the statement are all Democrats. Republican U.S. Rep. Steve Pearce was the only member of the delegation who did not sign.

A Homeland Security official, who heads the office overseeing state compliance with the Real ID Act, said Friday that his department determined nine states with two-tiered driver's license systems — such as the one proposed in the compromise bill sponsored by state Senate Republican leader Stuart Ingle of Portales and Sen. John Arthur Smith, D-Deming — are in compliance with the federal law.

Meanwhile, a senior fellow at the national libertarian think tank the Cato Institute told The New Mexican on Friday that he believes the federal agency is bluffing about ever actually enforcing

the act in New Mexico and any other state that's not in compliance with the law. "They will never do it," said Jim Harper, who in recent weeks has authored several opinion pieces about Real ID.

But none of this is likely to change the mind of Gov. Susana Martinez, who, since she first campaigned for office, has sought to repeal the 2003 bill that allows the state to issue licenses to immigrants without verifying their legal status.

A spokesman for Martinez said in an email Friday: "The governor has worked every session for five years in a bipartisan manner to end the dangerous practice of giving illegal immigrants driver's licenses. She has made numerous compromises and believes it's time that the Senate Democratic leadership allow an up or down vote on the this issue." He didn't respond to questions about the joint statement by members of the congressional delegation or the Homeland Security official's statement that states with two-tier license systems are in compliance with the law.

The joint statement said: "The delegation has received an in-depth briefing from the Department of Homeland Security about the circumstances behind the secretary's decision not to grant New Mexico an extension to comply with Real ID. Many New Mexicans have questions about how and when they might be affected. We were informed that access to federal buildings will not change before January 10, and the earliest airline travel might be affected is next spring.

"Our offices remain in close contact with DHS and it is clear from our conversations that the state legislature and the governor must take action to ensure New Mexicans can continue to access federal facilities and airports in the months to come.

"We support a pragmatic, bipartisan solution like the legislation passed by the New Mexico Senate that is both Real ID compliant and ensures all New Mexico drivers can continue to drive legally and safely."

Udall, through a spokeswoman, told *The New Mexican*, "I don't support the Real ID Act — I voted against it as a member of the House of Representatives. I'm urging the state legislature and the governor to find a solution that ensures New Mexico drivers' licenses will be valid for federal purposes and that ensures immigrants can continue to drive legally. It's simply unsafe and unwise to have thousands of unlicensed drivers on the road, and that would be the impact of denying immigrants licenses. The state Senate passed a bipartisan bill that would create a two-tier license system similar to what Utah implemented to become compliant with Real ID. And I believe that kind of plan is the best solution."

Ted Sobel of the Department of Homeland Security's Office of State-Issued Identification Support confirmed Friday that New Mexico's practice of issuing driver's licenses without checking applicants' legal status is the main factor that caused the department to deny further deadline extensions for compliance with the law.

But Sobel said two-tiered driver's licenses are acceptable under the Real ID Act, as long as the state offers one card that complies with the various aspect of the law. The other, noncompliant type of license — essentially a driver's permit — has to have a distinct and separate design from the Real ID license and has to state "Not for federal purposes" or "Not for identification" or a similar message.

Harper of the Cato Institute said simple politics will prevent Homeland Security from ever actually cracking down on people from states whose driver's licenses aren't in compliance with the Real ID Act.

"Imagine the newspaper articles there would be," he said. He gave the example of a young couple with a newborn baby trying to board a plane to "visit grandma for the first time." This couple, he said, would have to stand in the Transportation Security Administration line at the airport, get to the front, hand the agent their driver's licenses and "then be told by the TSA that 'No, we can't accept this.'"

Harper said such stories would generate a public outcry. "All the heat would come down on them — first the TSA, then Homeland Security, then Congress," he said. "People aren't going to blame their state legislature. They're going to blame the federal government."

Both Harper and Peter Simonson, executive director of the American Civil Liberties Union of New Mexico, noted that many states have passed laws forbidding their states from complying with the federal law. "A large portion of the country has been in open rebellion against Real ID since its passage ten years ago," Simonson said in a news release.

"The American people have hated Real ID from its inception, and for good reason," Simonson said. "It is a federal overreach that strips rights from the states, tramples civil liberties, puts citizens' personal information at risk, while doing little to make us safer. The federal government's denial of New Mexico's requested extension should be recognized for what it is: a bullying tactic meant to force New Mexico into accepting a national ID card that nobody wants or needs."

Sobel said despite the fact that some states have passed laws against Real ID, some of those states have quietly been making their licenses more secure and thus are in compliance or close to it.

Los Alamos National Laboratory is closely coordinating with the Department of Energy, which oversees national labs, to ensure continued compliance with the Real ID Act, a lab spokesman told The New Mexican. "Should the State of New Mexico not come into compliance with the requirements of the federal Real ID Act by January 10, Los Alamos National Laboratory will have alternate access control options in place, such as a valid U.S. Passport, for when individuals present IDs from noncompliant states or territories."