



EBTC INFORMATION BULLETIN

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SUBJECT: Real ID Act (proposals to repeal)

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Senate Judiciary Committee Chairman Patrick J. Leahy (D-Vt.), citing concerns about Americans' privacy, signaled yesterday that he will push to repeal a provision of a 2005 law aimed at creating new government standards for driver's licenses.

Leahy, who has co-sponsored bipartisan legislation to repeal the provision, spoke out as the debate intensified over the Real ID Act, which requires states to create new tamper-proof driver's licenses in line with rules recently issued by the Department of Homeland Security. States must begin to comply by May 2008 but can request more time. After 2013, people whose IDs do not meet those standards will not be allowed to board planes or enter federal buildings. A similar Democrat-backed bill to repeal the provision is pending in the House. At least seven states have passed laws or resolutions opposing implementation of Real ID. Fourteen states have legislation pending. By yesterday, the DHS had received more than 12,000 public comments in response to the rules.

Real ID legislation was tacked onto a 2005 emergency spending bill by House Republicans, without Senate debate, and signed by President Bush. The bill's passage cut short negotiations between states and the federal government to improve driver's license security. Advocates of a repeal want to restart the negotiations.

But proponents say Real ID is an effort to strengthen security standards for state-issued driver's licenses, a key recommendation of the 9/11 Commission. The 19 hijackers on Sept. 11, 2001, had 30 state-issued IDs, at least seven of which were obtained by fraud, a commissioner noted. They used them to rent cars and apartments, open bank accounts, and board planes.

But the proposed rules to implement Real ID, critics warn, could open the door to privacy invasions by establishing a national database of personal data, accessible to state and federal law enforcement and other entities. The law would force states to foot a \$23.1 billion bill over 10 years for what amounts to a national ID card, they say. And it would, they argue, increase risk of identity theft and fraud.

"I think the days of Congress rubber-stamping any and every idea cooked up by the administration are over," Leahy said yesterday at a hearing. "You have the nation's governors, Republicans and Democrats, who say they want to have a voice in this. Should they be ignored, or is this a case where the federal government knows better than the states?"

Leahy sponsored the repeal legislation with Sens. Daniel K. Akaka (D-Hawaii), John E. Sununu (R-N.H.) and Jon Tester (D-Mont.).

The issue is a tripwire for politicians wanting to show they are tough on illegal immigrants but not on civil liberties for U.S. citizens. At last week's GOP presidential debate, several Republican candidates, including Sen. Sam Brownback (R-Kan.), a Judiciary Committee member, voiced opposition to a national ID card for U.S. citizens. Mitt Romney, governor of Massachusetts, said he supported an ID card "for aliens, not for citizens."

Experts are divided on the law.

Jim Harper, director of Information Studies at the libertarian Cato Institute, said at the hearing that Real ID's costs would not justify its added security benefits.

But James Carafano, senior research fellow at the conservative Heritage Foundation, defended the program, saying it does not establish a national identity card system or a new, national database, but rather would be a system of integrated databases that would help deter terrorism.

The editorial board of the Wall Street Journal also took a whack at Real ID yesterday, saying its intent "was always more about harassing Mexican illegals than stopping Islamic terrorists."

DHS spokesman Russ Knocke said the agency was listening to the states' concerns about implementing the program.

"Understandably it's going to create some burden in terms of cost for states," he said. "But it's righteous. And shame on us if we don't take the steps now to address known vulnerabilities because the alternative is sitting back and hoping you get lucky."