

Idaho Objects to Real ID, by Rep. Phil Hart, District 3, Idaho Legislature

On April 10, 2008, Idaho Governor Butch Otter signed House Bill 606 the anti-Real ID bill. What is Real ID and what did HB 606 do?

The Real ID Act of 2005 is an attempt by the federal government to create a national ID card under the guise of fighting terrorism. The scheme mandates that state driver's licenses carry on them various bells and whistles in order to comply. It is the state drivers licenses that the federal government wants to morph into a national ID card. It also creates a massive data base of all the drivers' licenses in the country, their supporting documents and other personal information on driver's licensees and identification card holders. The cost to the states of compliance is estimated to be \$10 to \$20 billion, yet the feds have offered only \$84 million in support.

It took the U.S. Department of Homeland Security 32 months to issue their final regulations on how the states must comply, yet it only gave the states 4 months to do so. Consequently, many states have asked for an extension, which is easily granted.

This legislative session the Idaho Legislature said "No" to Real ID with the passage of HB 606. The bill was authored by Representative Phil Hart, R-Athol and Ms. Hannah Saona, legislative liaison for the ACLU and was modeled after the 2007 Montana bill which passed both houses of their legislature unanimously.

House Bill 606 places into Idaho Code a prohibition of complying with Real ID. However, the bill gives the Governor the discretion of initiating implementation of Real ID should the U.S. Department of Homeland Security revise their final rule (regulations) such that they are "acceptable to the State of Idaho." Page 3 of the bill, lines 4 through 12 reads:

"Provided however, that if the United States Department of Homeland Security revises its final administrative regulation, 6 CFR Part 37, relating to the REAL ID, and the Governor of the State of Idaho subsequently determines that such revised final regulation is acceptable to the State of Idaho, by Executive Order the Governor may initiate implementation of REAL ID during the 2008 interim... ..However, continued implementation of REAL ID shall be subject to the approval by the members of the First Regular Session of the Sixtieth Idaho Legislature."

So, what constitutes being "acceptable to the State of Idaho"? And when is the interim period over? First of all, the interim period ends when the Legislature goes back into session, which will be January 5, 2009.

Next, to discover what would make any revisions to the final rule "acceptable to the State of Idaho," one would have to look at the legislative intent found in section 1 of House Bill 606 and also all of the 2007 objections to Real ID found in House Joint Memorial 3 which was also authored by Representative Hart and Ms. Hannah Saona of the ACLU. There are 14 separate objections to Real ID listed in these two bills. It is in these two bills that "State of Idaho" has voiced its objections about Real ID.

HB 606 can be found here: <http://www3.state.id.us/oasis/H0606.html>

HJR 3 can be found here: <http://www3.state.id.us/oasis/2007/HJM003.html>

The State of Idaho objections are:

1. Real ID required all states to share their driver's license and identification card data bases. (HJM 3 pg. 1. line 22.)
2. Information on driver's licenses will be in a standard machine readable format increasing the chance that such data will be mined by private entities. (HJM 3 pg. 1. line 25.)
3. Drivers licenses and identification cards from non compliant states will no longer be acceptable for boarding an aircraft. (HJM 3 pg. 1. line 27.)
4. Real ID is an unfunded mandate on the states. (HJM 3 pg. 1. line 29.)
5. Real ID creates a massive database subject to security breaches. (HJM 3 pg. 1. line 34.)
6. The huge Real ID database will be mined by private interests, or private interests can get personal data directly off of Real IDs. (HJM 3 pg. 1. line 40.)
7. The huge Real ID database will be a gold mine for identity thieves. (HJM 3 pg. 2. line 5.)
8. Real ID will make known the home addresses of persons whose home locations need to remain unknown, like secret witnesses and judges. (HJM 3 pg. 2. line 11.)
9. The extra record keeping requirements of Real ID will place too large a burden on local DMV's. (HJM 3 pg. 2. line 15.)
10. The extra requirement of Real ID will place too difficult a burden on citizens attempting to acquire a driver's license. (HJM 3 pg. 2. line 10.)
11. Real ID will force state employees to be immigration officials, a job that should be done by the federal government. (HJM 3 pg. 2. line 22.)
12. Real ID did not have the normal public hearing process and was attached to a congressional bill after that bill had passed Congress. (HJM 3 pg. 2. line 25.)
13. The federal government has been ineffective in stopping illegal immigration and allows unauthorized persons easy access into the United States. (HB 606 pg. 2. line 22.)
14. The federal government should not scrutinize law-abiding citizens via Real ID until they have secured the borders. (HB 606 pg. 2. line 25.)

Many of the Real ID objections noted for the 2007 House Joint Memorial 3 can also be found in 2008's House Bill 606. As long as House Bill 606 is a part of Idaho Code, Real ID can not be implemented unless all of the expressed objections that Legislature had made are satisfied. This is what the language of HB 606 states. Only by satisfying all of these objections will Real ID be "acceptable to the State of Idaho."

The leading experts on Real ID at both the Cato Institute and the ACLU have reviewed the amended Idaho bill and all agree that it is essentially an impossibility that the Department of Homeland Security will revise their final rule before the first of the year. It took them 32 months to come up with their first "final rule". They are not going to change it anytime soon. And even if the final rule did change, it certainly will not comply with the 14 above noted objections.

Those at the national level of the ACLU, the Cato Institute and Legislators Against Real ID are all pleased with the Idaho's HB 606. HB 606 insures that Idaho will not comply with Real ID and helps to push back on a nationwide level the whole Real ID scheme. We can expect Congress to take notice of what Idaho had done and hopefully repeal the Real ID Act of 2005.

The Legislature of Idaho has done its part. Please write you congressman and tell them that you want Congress to repeal Real ID.