



Written by [Michael Tennant](#) on September 29, 2015

DHS: States' Refusal to Implement REAL ID Could Ground Residents

Starting next year, residents of four states plus American Samoa may be unable to use their driver's licenses as identification for boarding an airplane or entering certain federal buildings if the Department of Homeland Security (DHS) gets its way.

Under the current schedule, beginning January 1 DHS plans to require U.S. residents wishing to fly commercially to present identification compliant with the 2005 REAL ID Act. That law mandates that state driver's licenses and other ID cards link identifying details about a person, such as name, address, birth date, photograph, and signature, with a unique identification number. Americans without such a card would be prohibited from flying and entering certain federal buildings — and that's just the beginning. The law does not restrict the ability of the DHS to add further technological requirements, such as RFID chips, or to expand the number of activities that Americans must present a REAL ID to engage in.



“The law places no limits on potential required uses for Real IDs,” [warned](#) the American Civil Liberties Union of Maryland. “In time, Real IDs could be required to vote, collect a Social Security check, access Medicaid, open a bank account, go to an Orioles [baseball] game, or buy a gun. The private sector could begin mandating a Real ID to perform countless commercial and financial activities, such as renting a DVD or buying car insurance. Real ID cards would become a necessity, making them de facto national IDs.”

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That the REAL ID data would be shared with the federal government is cause for additional concern. For one thing, it would give the feds another means of tracking Americans' every movement — something they have already [admitted](#) they want to do and are trying to do in a variety of ways. For another, having all that personal information in a single database offers hackers an easy target for identity theft or other malicious acts.

States have long pushed back against REAL ID, with some actually passing laws prohibiting their motor vehicle departments from issuing compliant driver's licenses or, in some cases, even looking into what would be required to do so. DHS has repeatedly postponed the date on which it will begin requiring



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REAL ID-compliant identification for flight purposes, and it has granted extensions to many states, allowing their residents to continue using their noncompliant licenses for years to come.

According to the [DHS website](#), fewer than half the states, along with the District of Columbia, are currently issuing compliant ID cards, while 28 states and territories are still operating under extensions. Four states — Louisiana, Minnesota, New Hampshire, and New York — plus American Samoa have neither compliant licenses nor extensions. If DHS proceeds under the current schedule, residents of these jurisdictions could be prohibited from flying as of the first of the year unless they present alternative approved documents such as passports.

Louisiana has no REAL ID-compliant licenses and no plans to create one. Last year the legislature passed a bill that would have given residents the option of obtaining a compliant license, but Republican Governor Bobby Jindal [vetoed](#) it, citing conservative groups' "concerns about whether it will compromise Louisiana's sovereignty over what is fundamentally a state method of identification" and state police fears that an amendment to the bill would have interfered with their ability to investigate identity theft and fraud.

Under a 2010 law signed by then-Governor Tim Pawlenty, a Republican, the state of Minnesota isn't allowed to take "any action to adopt Real ID," according to the St. Paul [Pioneer Press](#). Current governor Mark Dayton, a Democrat, told the paper he thinks the legislature "went overboard." The law, he maintained, was "senseless" in 2010, and continuing to refuse to implement REAL ID now "would be equally senseless."

"I think national security requires that kind of hard ID," Dayton said, swallowing the excuse for so many unconstitutional expansions of federal power over the last century.

Dayton spoke with Homeland Security Secretary Jeh Johnson and "assured him that Minnesota would work toward Real ID" even if it meant calling a special session of the legislature, which isn't scheduled to meet again in regular session until March, the *Pioneer Press* reported.

New Hampshire state Representative Steven Smith, a Republican, has introduced legislation to allow residents to buy REAL ID-compliant licenses if they so desire, according to the [Concord Monitor](#).

"Most people in New Hampshire probably don't want to be bothered by any of this; they're not flying around the country," said Smith, chairman of the House Transportation Committee. "For people that do want to use a license — to fly, drive to Canada, visit federal facilities — we'll have an optional enhanced license that they can pay extra for to get."

For those Granite Staters worried about their privacy yet in need of a compliant license, an existing state law will help allay some, but certainly not all, of those fears: The Department of Motor Vehicles is prohibited from sharing state driver's license information with the federal government.

Both [New York](#) and Minnesota offer, for an additional fee, enhanced driver's licenses that can currently be used as secondary identification for DHS purposes. However, the DHS website indicates only that "federal officials may continue to accept" these licenses. (Emphasis added.) If they don't, residents of those states could be grounded.

Then again, DHS may well grant yet another extension to each of these states, kicking the REAL ID can down the road a few more years. It seems somewhat pointless to enforce the flight restrictions on just these few states; a would-be terrorist could simply cross into a neighboring state and fly from there. But logic has never been one of government's strong points.



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Still, there is reason for optimism. States have demonstrated that either by inaction or by outright refusal to comply, they can stymie federal overreach. If only they would apply this lesson to the scores of other unconstitutional federal mandates, the system of federalism bequeathed to us by the Founders might someday be restored.



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