

Testimony before Senate Budget Subcommittee 4 on Implementation of the Federal Real ID Act of 2005

Barry Steinhardt
Director, Technology & Liberty Project
American Civil Liberties Union
February 23, 2006

Thank you Mr. Chairman, members of the Committee for having me here today to discuss one of the most prominent and disturbing federal-state initiatives of recent years, the Real ID Act. My name is Barry Steinhardt. I'm the Director of the ACLU's Technology & Liberty Program.

The ACLU believes that the entire concept behind Real ID is flawed. We think it is a de facto National ID, one that will restrict people's movements and liberty. We also believe it will cause numerous other invasions of privacy and increase identity theft and discrimination. But that isn't what I've come here to talk about today. Instead I will direct my remarks to the subject of this committee's interest – the cost of Real ID and its significant implementation issues for California residents and drivers. Real ID will require a complete restructuring of the licensing process – costing the state at minimum between \$528 million and \$754 million and increasing the cost and inconvenience of receiving a license for all drivers.

Obviously, because of its size and importance as a national leader California's position on Real ID is extraordinarily important but the state is not alone in grappling with these problems. Last year in an American Association of Motor Vehicle Administrators (AAMVA) survey states using words like impossible and nightmare to describe the Act's provisions. Perhaps the greatest cautionary tale comes from Alabama where the state has actually attempted to implement a portion of the Act: the requirement that names on compliant driver's licenses must exactly match individuals' names as held by the Social Security Administration.

The result, as described in the attached article was a fiasco. Thousands of panicked Alabama residents jammed DPS offices worried that they would lose their right to drive. And, because the state began its records review with the oldest records, many of the reported 65,000-80,000 drivers who got letters were senior citizens. Some elderly drivers were also reportedly worried that their Social Security checks or pensions would be interrupted if they did not "fix" the problem right away.

People waited *days* to get changes made. One 70-year-old woman had to go to the motor vehicles office for three days straight, the AP reported, finally obtaining a new license on the third day after a two-and-a-half-hour wait. Then, she was asked to pay an \$18 fee - the state's standard payment for a new or duplicate license – and she "hit the ceiling." The change over has also been beset by other problems including computer

failures (often lasting 1 to 3 hours) and confusion over what the “correct” information they were supposed to supply.

California is likely to encounter problems with Real ID in 3 main areas: administrative burden, cost, and burden to their citizens.

I. Administrative Burden

In a survey conducted by AAMVA California DMV officials identified a number of Real ID requirements that will likely be significant problems for the state and require a substantial investment in resources to comply with.

- **Legal Name** – While California already requires drivers to use the name that appears on their birth certificate for licenses they do not have the capacity to capture the full name of individuals with long legal names. Such change would be a “major” impact according to officials because the name record is the central data element for all drivers’ license systems. Changing it might require a complete or partial redesign of the state’s entire system.
- **Verification** – California officials describe verifying source documents as an area of major impact in terms of cost and changes to state law. This is in spite of the fact that the state assumes that AAMVA or the federal government will build electronic systems for verification. Currently such systems do not exist for most of the information – for example, birth certificates, principal address – that needs to be verified under the system (and the requirements for building such systems, such as scanning every birth certificate in America, are very burdensome). Manual verification would be a nightmare involving contacting multiple issuing agencies and verifying source documents for every single applicant.
- **Document Storage** – Scanning and saving all the source documents for California residents will have a major impact. The DMV reports, “We do not capture and store this information today. Requires new equipment, possible office layout modifications, major programming, and database development. Requires database storage capabilities for at least 25 million records.” California has a substantial number of licensing facilities that would need to be refitted.
- **Linking Motor Vehicle Databases** – Real ID requires states to provide each other with electronic access to the wide variety of motor vehicle information that states currently maintain. California officials have stated that they have no idea what the impact of this provision would be. Other states have suggested that meeting this requirement will prove impossible – requiring all state systems to share a common design. Instead, many suggest the use of a “pointer” system that contains a limited amount of information and directs information seekers to the appropriate state. A current, much smaller, pointer system for the records of commercial drivers costs approximately \$1 a driver, a year to maintain. There are approximately 25 million drivers in California.

- **Limit validity of licenses** – DMV officials believe the requirement that licenses and identification cards be limited to 8 years will have a major impact on senior citizens whose ID cards are currently valid for 10 years.
- **Renewals** – The California report contains great concerns about how they will handle the bulk of their transactions – license renewals. The statute is unclear on what level of review these applications require. If renewal applicants are forced to undergo the entire Real ID process costs would increase exponentially.
- **Temporary Licenses** - According to DMV officials tying non-citizen immigrants' period of license validity to the duration of their stay in the United States would involve additional personnel and IT costs. Training costs to help staff understand and verify immigration documents will be significant.

II. Cost

Of course compliance with all of these new administrative requirements will be expensive. Almost all these costs will have to be born by the state and its taxpayers. The current Department of Homeland Security budget for 2006 contains only \$40 million to help states comply with Real ID and President Bush's Fiscal Year 2007 budget contains only an additional \$24 million. This federal funding will only be a drop in the bucket of total Real ID costs

California DMV officials have estimated that the base cost to implement the Real ID over 6 years is between \$275M and \$501M. In addition, they are estimating another \$253M for related IT projects. So, the total cost estimate is between \$528M and \$754M. Therefore, the Real ID imposes an additional \$30 per driver's license for California's have approximately 25 million drivers.

There is every reason to believe that these estimates could, in fact, be low. Three states, Virginia, Washington State and Pennsylvania, have performed detailed assessments of their costs under Real ID. Virginia estimated that it would have one-time costs of between \$35 million and \$169 million and recurring costs of between \$5 million and \$63 million. Washington State placed its cost of compliance at \$251.1 million over 6 years. Pennsylvania estimated its cost at \$85 million over 6 years. Utilizing the same cost estimates as Washington States, California's costs would be approximately \$1.1 billion.

III. Burden on Citizens

The California DMV has made great strides in recent years in improving customer service and reforming their image as the standard for a bad government bureaucracy. These service improvements have included such advances as shorter lines and waiting

times, Internet ordering of renewals and replacement licenses, mobile service trucks, and many others.

However, according to California officials and experiences in other states Real ID will do away with many of these customer-friendly innovations.

- **Longer waits.** As demonstrated by the Alabama fiasco, Real ID will almost certainly have a dramatic impact on the wait time for gaining a license. Simply updating records and assuring compliance with the Act for 25 million drivers is certain to strain whatever resources are dedicated to the problem.
- **No more Internet or mail transactions.** In the AAMVA survey California officials rightly expressed worry about what the impact of Real ID would be on Internet and mail license renewals. While regulations do not currently exist, it is hard to see how individuals can provide all the documents necessary to comply with Real ID without appearing at the DMV.
- **No more same-day licenses.** Extensive document verification requirements make it unlikely that most individuals will be able to receive a license the same day in which they apply.
- **Real ID Tax** – As noted above, Real ID could easily cost every California driver considerably more to receive their license. In spite of the fact that Real ID is a federal initiative responsibility for this “Real ID tax” is likely to be placed at the feet of state lawmakers.
- **Some drivers won’t be able to get a license.** While officials aren’t currently talking about this problem, the fact is that because the Real ID requirements are so stringent, it is a real possibility that some people will not be able to get licenses. Not everyone has a birth certificate. From some Native Americans to victims of Hurricane Katrina some people were either never issued licenses or have seen them lost though to disaster or other circumstances. Because a passport is the only foreign document that can be used under Real ID folks were born or raised in foreign countries will face special difficulties. Other individuals will run into a bureaucratic nightmare due to computer or human errors. Any of these things could render a person unable to get a Real ID.

IV. Conclusion

As I hope is clear Real ID will be a Real Nightmare. It will be exceeding complex and costly for California to implement, requiring substantial time and expertise from state officials. All of this will be expensive with the cost born almost exclusively by states and drivers.

It needs to be emphasized that there is no need for California to do anything precipitous. The regulations that will answer many of the outstanding questions and will be binding on the states have not been issued. They probably won't be issued until late in 2006.

The regulations will undoubtedly draw criticism from state officials and organizations across the political spectrum, and calls for revision. It is a fair assumption that the Congress will have to revisit this issue. It would be a mistake for any state – especially our largest – to act prematurely and spend what could be hundreds of millions of taxpayer dollars before we know specifically what will be required.

This is one of those times when the devil will be in the details, but the details don't yet exist.

Additional Resources:

Information on the AAMVA survey and California's replies is available at: <http://www.realnightmare.org/about/85>.

Additional information on problems in Alabama is available at: <http://www.realnightmare.org/about/4>

Cost estimates for Virginia, Washington State and Pennsylvania are available at: <http://www.realnightmare.org/resources/88>.

A detailed report on the problems with Real ID from a state task force in Virginia is available at: <http://www.realnightmare.org/news/16/#Warner>.