

SENATE JOINT RESOLUTION 248

By Henry

A RESOLUTION opposing the implementation of the REAL ID Act of 2005.

WHEREAS, in May of 2005, the United States Congress enacted the REAL ID Act of 2005 (REAL ID Act) as part of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief Act (Public Law 109-13), which was signed by President Bush on May 11, 2005, and which becomes fully effective on May 11, 2008; and

WHEREAS, some of the requirements of the REAL ID Act are that states shall:

- (1) issue a driver's license or state identification card in a uniform format, containing uniform information, all as prescribed by the Department of Homeland Security;
- (2) verify the issuance, validity, and completeness of all primary documents used to issue a driver's license, such as those showing that the bearer is a United States citizen or a lawful alien, a lawful refugee, or a person holding a valid visa;
- (3) provide for the secure storage of all primary documents which are used to issue a federally-approved driver's license or state identification card;
- (4) provide fraudulent document recognition training to all persons engaged in issuing driver's licenses or state identification cards; and
- (5) issue a driver's license or state identification card in a prescribed format if it is a license or card that does not meet the criteria provided for a federally-approved license or identification card; and

WHEREAS, use of the federal minimum standards for state driver's licenses and state-issued identification cards will be necessary for any type of federally regulated activity for which an identification card must be displayed, including flying in a commercial airplane, making transactions with a federally licensed bank, entering a federal building, or making application for federally supported public assistance benefits, including Social Security; and

WHEREAS, some of the intended privacy requirements of the REAL ID Act, such as the use of common machine-readable technology and state maintenance of a database that can be shared with the United States and agencies of other states, may actually make it more likely that a federally-required driver's license or state identification card, or the information about the bearer on which the license or card is based, will be stolen, sold, or otherwise used for purposes for which it was never intended or that are criminally related than if the REAL ID Act had not been enacted; and

WHEREAS, the REAL ID Act is estimated to cost Tennessee fifty million dollars to implement; and

WHEREAS, the mandate to the states, through federal legislation that provides no funding for its requirements, to issue what is, in effect, a national identification card appears to be an attempt to commandeer the political machinery of the states and to require them to be agents of the federal government, in violation of the principles of federalism contained in the Tenth Amendment to the United States Constitution, as construed by the United States Supreme Court in *New York v. United States*, 488 U.S. 1041 (1992), *United States v. Lopez*, 514 U.S. 549 (1995), and *Printz v. United States*, 521 U.S. 898 (1997); now, therefore,

BE IT RESOLVED BY THE SENATE OF THE ONE HUNDRED FIFTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE HOUSE OF REPRESENTATIVES CONCURRING, that the REAL ID Act of 2005 enacted by the United States Congress not be implemented by the State of Tennessee by reason of the holdings in the cases of the United States Supreme Court in *New York v. United States*, 488 U.S. 1041 (1992), *United States v. Lopez*, 514 U.S. 549 (1995), and *Printz v. United States*, 521 U.S. 898 (1997).

BE IT FURTHER RESOLVED, that there be no implementation of the REAL ID Act of 2005, unless and until funding for the same is furnished by the United States government.

BE IT FURTHER RESOLVED, that an enrolled copy of this resolution be transmitted to the Honorable George W. Bush, President of the United States; the Speaker and the Clerk of the U.S. House of Representatives; the President and the Secretary of the U.S. Senate; and each member of Tennessee's Congressional delegation.