

Senate Bill 5

By: Senators Seabaugh of the 28th, Rogers of the 21st, Whitehead, Sr., of the 24th and Shafer of the 48th

AS PASSED

AN ACT

To state findings of the General Assembly regarding the Real ID Act; to amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses, so as to permit the Governor of Georgia to delay implementing the requirements of the Real ID Act until the Department of Homeland Security has issued regulations that the Governor finds will adequately protect the interests of the citizens of Georgia; to require the presentation of secure and verifiable documents for purposes of obtaining a driver's license by a noncitizen; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

The General Assembly of Georgia finds that the Real ID Act, H.R. 1268, P.L. 109-13, enacted by Congress in 2005, established standards that state-issued drivers' licenses and identification cards must meet by May 11, 2008, if the licenses or identification cards are to be accepted as valid identification by the federal government. After May 11, 2008, federal agencies are scheduled to accept only drivers' licenses or identification cards that meet Real ID standards. Noncompliant cards will not be accepted for federal purposes such as boarding a domestic flight, opening a bank account, or any other service or activity over which the federal government claims jurisdiction. Each state will also be required to share data from their drivers' licenses or identification cards data base with other states. The exact requirements of the Real ID Act have yet to be defined. The Department of Homeland Security was originally going to promulgate regulations by November, 2005. That date was changed to November, 2006. Currently, regulations are scheduled for January, 2007, but many parties feel this deadline may also pass without the regulations being issued.

Because the Real ID Act was attached to a vital supplemental spending bill for defense and tsunami relief, there was no opportunity for a full examination of the consequences of the proposal. While everyone recognizes the need to make identifying documents as secure as

is humanly possible, the one-size-fits-all approach required by the Real ID Act may actually increase the documents' vulnerability to counterfeiting. If criminals are able to invade one state's system, they may have access to all states' systems. On another front, a report from the National Conference of State Legislatures, the National Governors Association, and the American Association of Motor Vehicle Administrators suggests that the new requirements of the Real ID Act will cost states at least \$11 billion over the first five years of the program. Despite this massive price tag, there has been no money appropriated to help states meet the law's demands.

The Real ID Act gives the Department of Homeland Security the power to set federal standards and determine whether state drivers' licenses and other identification cards meet these standards. There is no provision in the Real ID Act that requires or even mentions information privacy or data security. The federal and state governments must ensure that the data needed to verify the identity of driver's license applicants is maintained securely and not used for other unrelated purposes. The Department of Homeland Security must include privacy protections for personal driver data as they promulgate regulations spelling out what states need to do to implement the federal law. Success of the Real ID Act depends on the Department of Homeland Security and the states collaborating to find a way of implementing its requirements in a fiscally responsible and risk adjusted manner. Therefore, the Georgia Department of Driver Services is directed to withhold any legislation designed to implement the Real ID Act in Georgia until such time as the Department of Homeland Security has enacted regulations that define the exact type of information that is to be required on a state driver's license. Furthermore, before the Real ID Act is implemented in Georgia, the Governor of Georgia is entitled to review the regulations promulgated by the Department of Homeland Security and determine if they adequately safeguard and restrict use of the information in order to protect the privacy rights of the citizens of Georgia.

The citizens of Georgia also recognize the importance of ensuring that drivers' licenses are issued only to persons legally present in this state. Therefore, the use of secure and verifiable identification will be required in this state in order to obtain a driver's license. This requirement is in harmony with the intent of the Real ID Act to secure identification processes in this country. The Department of Driver Services is instructed to take the necessary steps to become a participant in the SAVE Program (Systematic Alien Verification for Entitlements). This program, administered by the United States Bureau of Citizenship and Immigration Services, is designed to verify the immigration status of noncitizens.

SECTION 2.

Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses, is amended by adding a new Code section to read as follows:

"40-5-4.1.

The Governor of the State of Georgia, or his or her designee, is authorized to delay compliance with certain provisions of the federal Real ID Act, H.R. 1268, P.L. 109-13, enacted by Congress in 2005, until it is expressly guaranteed by the Department of Homeland Security, through adequately defined safeguards, that implementation of the Real ID Act will not compromise the economic privacy or biological sanctity of any citizen or resident of the State of Georgia. This Code section shall not be interpreted as limiting the Governor's discretion or authority to delay compliance with certain provisions of the Real ID Act for any other reason."

SECTION 3.

Said chapter is further amended by adding a new Code section to read as follows:

"40-5-21.2.

(a) As used in this Code section, the term:

(1) 'Department' means the Georgia Department of Driver Services.

(2) 'SAVE Program' means the Systematic Alien Verification for Entitlements (SAVE) Program established by the United States Bureau of Citizenship and Immigration Services.

(b) The department shall not issue an identification card, license, permit, or other official document to an applicant who is a noncitizen, until the applicant has been confirmed through the SAVE Program to be lawfully present in the United States.

(c) This Code section shall not apply to instances when a federal law mandates acceptance of a document.

(d) Subsection (b) of this Code section shall become effective upon the department's full implementation of the SAVE Program but not later than January 1, 2008."

SECTION 4.

This Act shall become effective on July 1, 2007.

SECTION 5.

All laws and parts of laws in conflict with this Act are repealed.