## **Get REAL**

There is still resistance to federally required secure driver's licenses, but most states are on the road to compliance.

## BY ALAN GREENBLATT

ongress and the U.S. Department of Homeland Security spent much of last year playing a game of chicken. In the end, DHS blinked.

The department hoped Congress would pass modifications to the REAL ID law, which calls on states to strengthen security of driver's licenses. But the modification bill, known as Pass ID—which eliminates the need for new databases and some other requirements—has gained little traction on Capitol Hill.

As a result, DHS officials grew anxious toward the end of 2009 that travelers who were taking off for the holidays would not be able to get back on airplanes for return trips in the new year, because a REAL ID interim compliance deadline was set to take effect Dec. 31.

With states not ready—and, in some cases, not willing—to comply, that would have rendered licenses useless for getting through security checks at airports nationwide. To avoid that massive snafu, on Dec. 18 the department waived the interim compliance deadline, but left the full compliance deadline of May 2011. That gave states and the federal government time to get systems up and running.

But with the deadline that far off, only about a half dozen states even bothered looking at legislation addressing REAL ID this year. In 2009, 42 bills were considered in 25 states.

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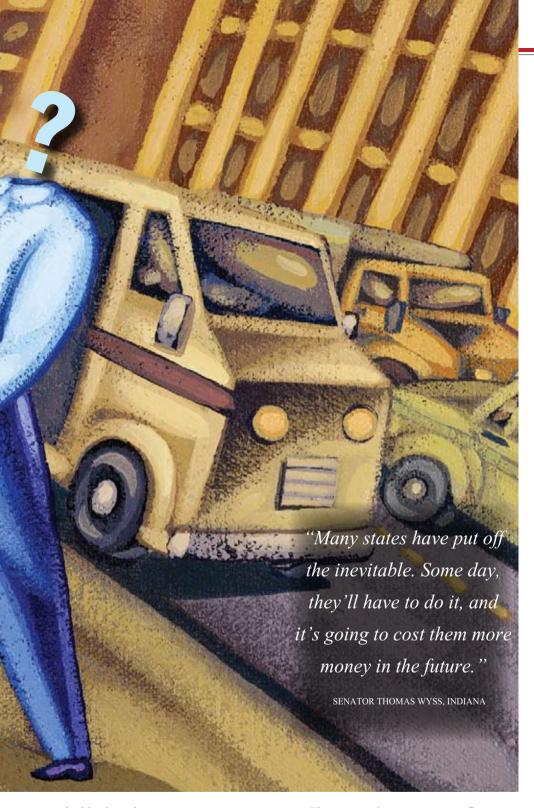


Now, however, states are starting to act. REAL ID compliance takes money, but not all the needed changes require legislation. In a number of states, motor vehicle departments are doing the behind-the-scenes work necessary to move closer to compliance, including updating computer systems, installing face-recognition software and setting up more secure card production rooms.

Only Florida, at this point, is issuing

licenses that meet the requirements of the federal law, the department reports. But every state is moving toward compliance. Even in the 14 states where legislatures have explicitly rejected REAL ID through laws or resolutions, some moves have been made in the direction of compliance. But there's still a lot of work to do if they're going to meet next year's deadline. There's a growing sense that states shouldn't count on deadlines getting

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pushed back again—or on new momentum behind Pass ID.

DHS has been fairly flexible in working with individual states trying to comply, but at this point states can't expect blanket relief.

"The federal DHS put all their eggs in the Pass ID basket, and that's DOA at the moment," says Jennifer Cohan, director of Delaware's Division of Motor Vehicles. That means that most states—five years after REAL ID's passage—are coming to accept the fact that the federal law is going to stay on the books and will be something they have to deal with.

"Many states, in my belief, have put off the inevitable," says Indiana Senator Thomas Wyss. "Some day, they'll have to do it, and it's going to cost them more money in the future."



SENATOR
THOMAS WYSS
INDIANA

## **COMPLAINTS ABOUT THE LAW**

The REAL ID law grew out of recommendations from the 9/11 Commission for tighter security measures for identification cards. Eighteen of the 19 hijackers on Sept. 11, 2001, had obtained licenses or state identification cards, some of them fraudulently.

States have made significant efforts since then to improve driver's license security. They also have scaled back plans to make it easier for citizens to renew licenses online or over the phone. Most states have also repealed policies that made it possible for illegal immigrants to obtain licenses.

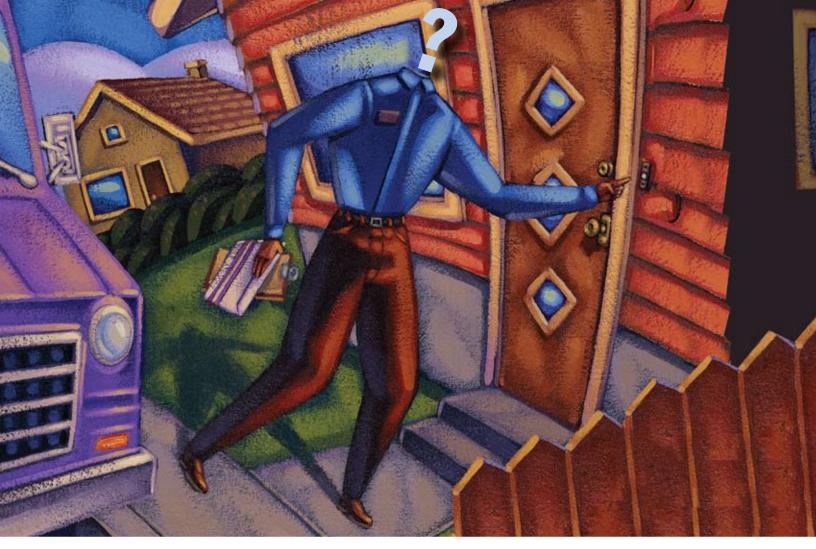
But while supportive of the security push, state policymakers were always unhappy with the way REAL ID was passed—almost without warning as a last-minute attachment to a bill funding the Iraq war.

In 2006, the National Conference of State Legislatures, the National Governors Association and the American Association of Motor Vehicle Administrators said it would cost states at least \$11 billion over five years to implement and would more than double the workload at motor vehicle departments. That estimate was based on draft regulations; the final regulations lowered the estimated cost to \$3.9 billion. Still, such a huge mandate naturally drew a heated response. Legislatures considered hundreds of bills to address REAL ID—many of them downright hostile to the concept.

"From an Alaskan perspective, we don't like big government—the federal government, in particular—telling us what to do here," says Senator Bill Wielechowski, who sponsored Alaska's law prohibiting state spending on REAL ID. "We felt that if enough states stood up very strongly to the federal government, it would be extremely difficult for it to impose this kind of mandate on air travel."

In addition to cost and federalism concerns, critics of the law have said it puts privacy at risk. Individuals have to produce birth certificates and Social Security numbers, which could then go into databases that

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SENATOR

BILL WIELECHOWSKI

ALASKA

might be accessible to DMV officials in other states—and potentially vulnerable to identify theft.

"You're going to have to put your personal information into the state database," says Missouri Representative Jim Guest, founder of Legislators Against REAL ID. "It will be open to other states, to thousands of people."

Guest sponsored successful legislation last year barring Missouri from participating in REAL ID. The other 13 states where legislatures have rejected REAL ID are Alaska, Arizona, Idaho, Louisiana, Maine, Minnesota, Montana, New Hampshire, Oklahoma, Oregon, South Carolina, Utah and Washington. And Arizona, as part of its controversial



REPRESENTATIVE

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immigration law enacted in April, reiterated the state's intention not to comply with REAL ID.

Ironically, Janet Napolitano, the U.S. secretary of Homeland Security, signed Arizona's initial noncompliance law when she was governor.

## **MEETING BENCHMARKS**

But open rebellion against REAL ID, which was so heated two or three years ago, has calmed considerably. States are no longer lining up to add themselves to the list of those refusing to fund or implement the federal law's requirements.

Instead, many state motor vehicle departments are quietly doing the work to meet the

law's initial 18 benchmarks. According to DHS, all but the 14 holdout states say they'll be able to meet the law's operational requirements by the end of this year.

In addition, a few states—Michigan, New York, Vermont and Washington—have begun issuing enhanced driver's licenses, or EDLs, which are essentially state-issued proof of citizenship that make border crossings easier.

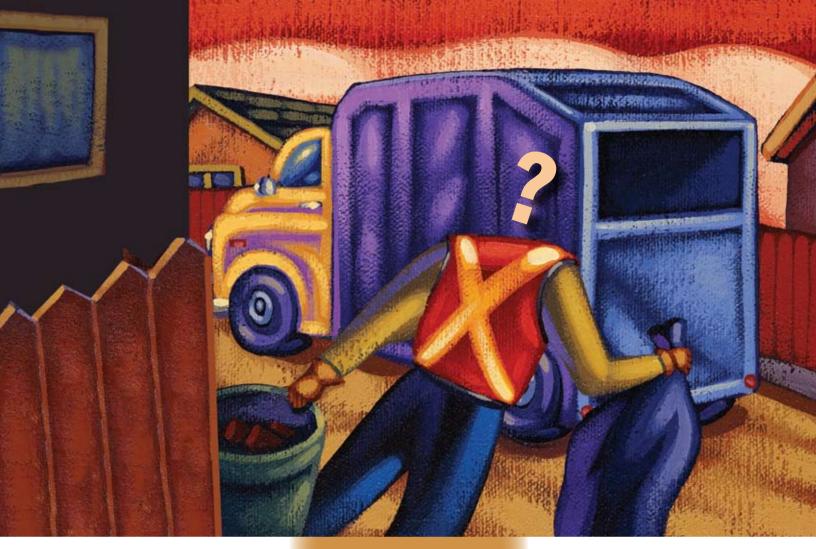
To meet stricter REAL ID requirements, the federal government has offered states nearly \$200 million in grants. Pass ID would have authorized even more.

"Not everything is going to come to you by the federal government doling out dollars," says Wyss, the Indiana senator.

The final REAL ID regulations issued by DHS have brought compliance costs down from their initial sticker-shock levels and also eased some of the logistical hurdles that troubled state officials.

Nine states so far have met the 18 interim benchmarks. Their road has not always been smooth. At the beginning of the year, when Utah began issuing new, more secure driv-

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er's licenses, residents had to endure waits of up to five hours. They had trouble even finding parking spaces at the DMV.

"We hear a lot from the public that, 'We've had a license for 50 years, why do we have to bring in these documents?' " says Nannette Rolfe, director of the Utah Department of Public Safety's driver license division.

The long wait times actually helped solve the problem, Rolfe says. Media coverage, as well as outreach by her division, helped people come better prepared for their license renewal appointments. The longest wait at the state's busiest office is now down to about 30 minutes.

"We felt it would drop down once the public became familiar with the documents they needed to bring," Rolfe says, "and employees became more familiar with the database."

Although Utah has taken major steps through statute and practical regulations toward meeting REAL ID requirements, it can go no further. In February, the legislature enacted a law blocking REAL ID implementation. It grandfathered in the actions the legislature and DMV had already taken

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toward compliance, but it bars Rolfe and her staff from making any moves to meet future requirements.

These are far from the best of times for states to come up with any extra cash for updating computer systems or hiring additional personnel to help manage the crowds. And longer lines and higher fees for the more secure cards don't make for many happy "customers" at the motor vehicle department.

But states with stricter license requirements are looking for ways to make citizen interaction with the DMV run smoother overall. Indiana, for instance, now has more time-consuming identification verification requirements, but allows car owners to obtain their plates through the Internet.

Jennifer Cohan, the Delaware motor vehicles director, suggests it's inevitable, because of REAL ID, that citizens and other drivers will have to pay a price in time and inconvenience at some point.

Delaware just started issuing more secure licenses in July, after changing statutes to comply with REAL ID. To prepare, the DMV had to physically renovate its handful of branches because of federal requirements that photographs be taken at the start of the application process, rather than at the end.

"The citizens will pay when they wait in line at the DMV, or when they get the second and third levels of security checks at the airport," Cohan says. "It's a choice for your citizens, either paying up front, or paying for it with their time later."

CHECK OUT more background on REAL ID at www.ncsl.org/magazine.

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