

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Enhance the Security of State Credentials

Otherwise known as the Real ID bill.

Last year the legislature almost unanimously [only 4 votes against] to oppose the Real ID bill. That law is still in the Maine statute. This new law is in conflict with the intent and purpose of the law already in the statute. In 2004, through Executive Order, the Governor determined state agencies could not ask those being assisted by the state agency about immigration status. That Order is also still active so far as we know. The Legal Presence clause of this new law is also in contradiction to that Order.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 29-A MRSA §1301, sub-§2-A is enacted to read:

2-A. Legal presence requirement. The Secretary of State may not issue a license to an applicant unless the applicant presents to the Secretary of State valid documentary evidence of *legal presence in the United States*. The U.S. Constitution provides that only the federal government can determine immigration issues.

Sec. 2. 29-A MRSA §1406, sub-§9 is enacted to read:

9. Expiration of license; lawfully present noncitizens. Notwithstanding any law to the contrary, a license issued to an applicant who is not a citizen or a legal permanent resident of the United States expires coterminously with the applicant's authorized duration of stay or the otherwise applicable expiration date of the license under this section, whichever occurs first. A license issued under this subsection must be valid for a period of at least 120 days.

Sec. 3. 29-A MRSA §1410, sub-§8 is enacted to read:

8. Legal presence requirement. The Secretary of State may not issue a nondriver identification card to an applicant unless the applicant presents to the Secretary of State valid documentary evidence of legal presence in the United States.

Sec. 4. 29-A MRSA §1410, sub-§9 is enacted to read:

9. Expiration of nondriver identification card; lawfully present noncitizens. Notwithstanding any law to the contrary, a nondriver identification card issued to *an applicant who is not a citizen or a legal permanent resident of the United States* [a determination that should be made by the federal government] expires coterminously with the applicant's authorized duration of stay or 6 years, whichever is the shorter period of time. A nondriver identification card issued under this subsection must be valid for a period of at least 120 days.

Sec. 5. Rulemaking; legal presence [according to MCLU even the federal government doesn't have a definition of legal presence. Further, and again, this is within the jurisdiction of the federal government, not the state] for license and identification cards; draft rules. No later than November 15, 2008, [the date was changed from October 15, 2008 so as not to be an issue in the election] the Secretary of State shall adopt rules governing what documents constitute valid documentary evidence to establish legal presence [again, the Constitution requires the federal government solely to have jurisdiction over immigration issues] pursuant to the Maine Revised Statutes, Title 29-A, section 1301, subsection 2-A and Title 29-A, section 1410, subsection 8. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 6. Participation in verification program; report. Notwithstanding the Maine Revised Statutes, Title 29-A, section 1411, the Secretary of State shall by December 1, 2009 participate in the federal Systematic Alien Verification for Entitlements Program maintained by United States Citizenship and Immigration Services [according to the Secretary of State (SOS) the SAVE program is incorrect approximately 60% of the time. Further, this is a national database, which is insecure and leads us to National ID cards aka: Real ID. It does not just cover so called "illegal immigrants", but all citizens. As the database is ineffective for its purported use, one needs to ask what it is really for] for the exclusive purpose of verifying the lawful presence of noncitizen applicants for driver's licenses or nondriver identification cards.

No later than January 30th of each year, beginning in 2010, the Secretary of State shall report to the joint standing committee of the Legislature having jurisdiction over transportation matters regarding the operation and effectiveness of the Systematic Alien Verification for Entitlements Program.

Sec. 7. Development of method to avoid duplication. Notwithstanding the Maine Revised Statutes, Title 29-A, section 1411, the Secretary of State shall study the most cost-effective way, such as facial recognition or fingerprint technology, [all citizens will be subjected and recorded via facial recognition, finger printing or other technology which could include various forms of biometrics. That information then goes into a database with no known restrictions (see federal law)] to ensure that an applicant does not have more than one driver's license or nondriver identification card issued by the State. The Secretary of State shall make a written report of findings and recommendations to the Governor and to the joint standing committee of the Legislature having jurisdiction over transportation matters no later than October 1, 2009.

Sec. 8. Photographs. Notwithstanding the Maine Revised Statutes, Title 29-A, section 1411, the Secretary of State shall study the most cost-effective way to develop and implement policies and procedures in order to take and maintain photographs of applicants at the time an application [this may not sound like a huge deal, but it forever changes the procedure of taking a photograph WHENEVER you get a license or ID card The photographs are kept even if you don't actually get a license or ID card. Everyone will be photographed.] for a driver's license or nondriver identification card is submitted. The Secretary of State shall make a written report of findings and recommendations to the

Governor and to the joint standing committee of the Legislature having jurisdiction over transportation matters no later than October 1, 2009.

Sec. 9. Federal REAL ID Act of 2005; repeal. If the United States Congress repeals the federal REAL ID Act of 2005, the Secretary of State shall submit proposed legislation to the joint standing committee of the Legislature having jurisdiction over transportation matters that returns Maine law regarding the issuance of driver's licenses and nondriver identification cards to what it was prior to the effective date of this Act. Upon receipt and review of that proposed legislation, the joint standing committee may submit a bill to the session of the Legislature in which the Secretary of State submits that proposed legislation. [Many who voted for this bill suggested that perhaps the federal Real ID law will be repealed under a new administration and/or Congress. This is highly unlikely.](#)

Effective 90 days following adjournment of the 123rd Legislature, First Special Session, unless otherwise indicated.

Notes:

- The data collected in the Real ID process can be accessed indiscriminately. Please see the Alert Flyer that shows the Federal law, which makes it clear access to these data is nearly unrestricted.
- This law is an infringement on civil rights, privacy rights, state's rights and is in contradiction to existing Maine statute. An Executive Order is already on the books and is constitutionally questionable.
- What's more, Maine is being singled out. Other states refused to comply and got waivers anyway. Some states have more lax residency standards than we do and got a waiver anyway, without having to file for one. If this is actually about being "safer", then all states would have to comply with all the benchmarks. Otherwise, one need only go to Hawaii, with no residency standards for a state license, and be able to go anywhere in the country with their unreal "ID". They would still have been able to get on an airplane, not be subjected to extra search and would not have been kept from entering federal buildings.
- (Maine was threatened not just with the possibility of those "repercussions" but was guaranteed that is what Maine citizens faced.) What are you trying to say here..unclear.
- The threat to keep Maine citizens out of a federal building also raises issues of constitutionality, not the least of which is our right to due process under the law.
- Lastly, the alleged 911 hijackers would all have been able to secure "Real ID". This isn't about safety. It is a boon to marketers, the biometrics industry and a government that has already illegally infringed on its own citizen's rights with illegal wiretapping, among other things.