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May 19, 2020

The Honorable Roger Wicker
Chairman
Senate Committee on Commerce, Science and Transportation
521 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Wicker:

Thank you for your recent letter to the National Governors Association (NGA) regarding challenges related to REAL ID implementation. Our members appreciate the efforts the Committee has taken to both highlight REAL ID more widely to our nation's citizens as well as working to identify solutions for better implementation and enforcement of the Act.

Since its passage, governors have consistently offered constructive and cost-effective recommendations for implementing and enforcing REAL ID. Governors have encouraged the Department of Homeland Security (DHS) and Congress to "fix" the act by implementing statutory or regulatory changes to make REAL ID feasible and cost-effective.

Governors have always supported the intent and purpose of the REAL ID Act. This is evident in states and territories investing their resources to raise public awareness, provide timely REAL ID services, and adopt best practices to achieve feasible REAL ID benchmarks.

While states have made great progress toward full compliance, the 15-year-old statute has not kept pace with today's technology. Likewise, the current regulatory framework creates unnecessary administrative burdens and constraints. Paired with the lack of a strong national public awareness campaign, we have seen slower and lower levels of issuance of REAL ID-compliant cards as well as increased frustrations for American citizens.

Additionally, states and territories are facing large challenges associated with the novel coronavirus (COVID-19) pandemic. The pandemic has forced most of our states and territories to close many of their government offices, including their Department of Motor Vehicles (DMV), making it virtually impossible to issue new REAL ID-compliant licenses within the existing regulations. Impacts on supply chains are also likely as the pandemic continues.

Given all this, in March, NGA sent a letter to Department of Homeland Security (DHS) Acting Secretary Wolf requesting an extension of REAL ID enforcement of no less than a year. We appreciate both the support from Congress on this via section 16006 of the Coronavirus Aid, Relief, and Economic Security Act or the CARES Act, as well as the Administration's action to delay until October 1, 2021.

We are hopeful that this extension will afford Congress, the Department of Homeland Security, states and territories the time necessary to update the 2005 REAL ID Act and bring it up to today's technological standards.

However, we remain concerned that the ongoing COVID-19 pandemic will continue to present additional unforeseen challenges and we would encourage both Congress and the Administration to consider future extensions for REAL-ID enforcement, should it be necessary.

Committee Questions

In your recent letter to NGA, you posed several questions to help inform the Committee regarding challenges, efforts to increase adoption, and impacts due to COVID-19. We offer the below to provide some insights we gathered from our engagements with our members to help inform the Committee's work.

NGA has continually worked with our members to better understand the challenges states and territories face with achieving full compliance with the Act. States and territories continue to express concerns about their ability to meet DHS requirements for full compliance by required timelines. The challenges described can vary widely: lack of personnel and funding; cross-jurisdictional responsibilities; and getting the word out to citizens, particularly vulnerable populations and especially those in remote locations.

Public Awareness and National Impacts

States and territories agree that clear and concise public communication and awareness will be key to effectively and efficiently achieving full issuance of REAL ID-compliant IDs. Each state has funded and implemented varying campaign tactics to get the word out about REAL ID to their citizens, including outreach, multi-media campaigns, web sites, and signage. Some have noted use of social media sites such as Twitter, Facebook and Instagram, to interact with their customers and remind them of the 2020 deadline.

Additionally, states and territories have continued to lead the way on the public messaging surrounding REAL ID and have developed partnerships with transit hubs, including airports in their states, to bring informational and registration resources around REAL ID directly to travelers.

The nation's governors want to work with Congress and DHS toward implementing and enforcing REAL ID. In our March 17 letter to the Department of Homeland Security, NGA asked that the Department create a unified, national marketing plan to intensify public outreach that will educate more American citizens, avoid excessive delays, and minimize additional costs to states and territories. We believe a national campaign, with consistent and accurate information, will have a greater impact in the long run.

Furthermore, as noted earlier, the COVID-19 pandemic has created unique challenges for state and territories, from DMV and state office closures to concerns about accessing paper birth certificates at already stressed state and local health departments.

Technological Advancements

Also in our March 17 letter, NGA included a request to Congress and DHS to incorporate state recommendations to ensure the regulations and the statute provide adequate time for implementation, workable verification standards that use available technology, recognition of state innovations that meet the objectives of the Act, and adequate federal funding to implement the law's mandates.

The goal of these administrative, regulatory and statutory changes is to accomplish four top goals which will help to:

1. expedite issuance of REAL ID-compliant cards,
2. ensure better messaging and education of American citizens,
3. increase resourcing at the state, territorial and federal level, and
4. maintain security standards while implementing innovative technological solutions.

Several advancements both in technology and policy will go a long way in supporting better issuance of REAL ID cards, to include;

- Updating the list of acceptable REAL ID identity verification documents for application presentation, including documents currently accepted by TSA for satisfying airport security protocol;
- state-to-state REAL ID reciprocity to help eliminate the need to repeat documentation and verification processes;

- clarifying within the Act the ability for states, territories and DHS to recognize and accept electronic verification of documents through federal and state systems rather than requiring paper documents;
- allowing for online application; and
- allowing states and territories to utilize information from currently existing federal travel programs, such as TSA Pre-Check and Global Entry.

Online Verification

On February 19, DHS [notified states](#) that they would be able to accept electronically submitted copies of source documents with certain restrictions for REAL ID to assist states with digital submission, receipt and authentication of documents.

Though well intended, the announcement created unintended challenges as most states do not have the technology on hand to implement this policy change, and likely will not invest limited resources in technology and training that will yield minimal returns.

Under this proposal, applicants would still need to physically present the same documentation in person, so the proposal only adds the additional step of uploading the same documentation presented at the time of application, verifying what was uploaded versus what was presented, and standing up a new customer interface – all without removing any of the current administrative processes mandated on the states. Likewise, the messaging was not clear, which led to additional confusion as to what constituted electronic submission versus what constituted satisfaction of in-person application requirements.

This illustrates the continued disconnect and gap between the interpretation of the Act and regulation and technological advancements.

Therefore, Congress should consider providing states with the discretion to electronically verify application without the need for physical presentation of the documents and DHS should consider its use. This, along with clear messaging on the process, will allow for expanded capability at state agencies to increase credentialing of those individuals seeking a REAL ID.

Conclusion

On behalf of NGA and our nation's governors, I want to thank you and the Committee for your continued efforts. The nation's governors want to work with Congress and DHS to enhance the REAL ID Act and we look forward finding workable, cost-effective solutions that can increase the security and integrity of all state license and identification systems.

Sincerely,



Bill McBride
Executive Director
National Governors Association

CC: The Honorable Maria Cantwell, Ranking Member
Members of the Senate Committee on Commerce, Science and Transportation