



**NYCLU**  
NEW YORK CIVIL LIBERTIES UNION

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BY FACSIMILE AND FIRST CLASS MAIL

April 19, 2007

Governor Eliot Spitzer  
The Executive Chamber  
State Capitol  
Albany, New York 12224

Re: Request for New York State to Refrain from Implementing the Real ID Act

Dear Governor Spitzer:

On behalf of the 48,000 members of the New York Civil Liberties Union, we write to request that you take steps to prevent the federal Real ID Act from being implemented in New York State. Specifically, we ask that you issue an executive order or statement declaring that New York State will refrain from implementing the driver's license provisions contained in the Act. Moreover, we ask that you support passage of a resolution by the state legislature expressing disapproval of implementation of the Real ID Act.

Since its passage, the Real ID Act of 2005 has ignited a storm of opposition from state lawmakers and executives across the country. In January of this year, Maine became the first state to opt out of the Real ID Act, and in the past two months, Idaho, Arkansas, Washington and Montana followed suit. Twenty nine states have introduced similar legislation.

The movement against Real ID Act implementation has been bipartisan, as Republicans from Missouri, Utah and New Hampshire have joined Democrats from Pennsylvania, Maryland and New Mexico in opposing the Act. Organizations opposing implementation of the Real ID Act range from the American Conservative Union and Gun Owners of America, to the Leadership Conference on Civil Rights and the National Organization for Women.

We urge you to take a national leadership role in this movement by adding New York to the list of states resisting this ill-advised law. New York State should opt out of implementation of the driver's license provisions of the Real ID Act for the following reasons: (1) The Real ID Act violates New Yorkers' privacy rights because it will create a national ID card, without improving security; (2) the Real ID Act increases substantially the risk of identity theft for New Yorkers; (3) the Real ID Act will be a bureaucratic nightmare for United States citizens and government officials charged with executing the Act, and will lead to thousands of eligible New Yorkers losing vital government services; (4) the Real ID Act turns local Department of Motor Vehicle offices into immigration enforcement agencies

to the detriment of hundreds of thousands of immigrant New Yorkers; and (5) the Real ID Act is an unfunded mandate on New York State that will cost taxpayers hundreds of millions of dollars and draw away from scarce antiterrorism funds.

## Background

In 2005, Congress passed the Real ID Act as part of an Iraq War/Tsunami relief appropriations bill.<sup>1</sup> Congressman James Sensenbrenner (R-WI) and the congressional leadership at the time struck the deal behind closed doors, leaving no time for sufficient consideration of the Act and its sweeping implications. For example, Congress did not hold a single hearing on the Act.

Title II of the Real ID Act attempts to force states to standardize their driver's licenses into a single national identity card and database.<sup>2</sup> It does this by stipulating that state driver's licenses will not be accepted for "federal purposes"—including boarding an aircraft or entering a federal facility—unless they meet all of the law's numerous conditions, which include: (1) standardized data elements and security features on driver's licenses; (2) a "machine readable zone" that will allow for the easy capture of all the data on the driver's licenses by the government, stores or anyone else with a reader; (3) the construction of a 50-state, interlinked database making all the information in each person's file available to all the other states and to the federal government; (4) proof of full legal name, date of birth, Social Security Number, principal address and lawful status in the United States as a condition of obtaining a driver's license; and (5) a requirement that states verify the "issuance, validity and completeness" of every document presented at motor vehicles agencies as part of an application for a Real ID card.<sup>3</sup>

On March 1, 2007 the Department of Homeland Security released its proposed regulations for implementation of the Real ID Act, which included a two-year extension of the compliance deadline<sup>4</sup>—an attempt to address the anger generated by the program, which state government officials have called "impossible" to implement.<sup>5</sup> Unfortunately, the regulations

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<sup>1</sup> Making Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, Pub. L. No. 109-13, 119 Stat 231 (codified in relevant part in 49 USCS §30301 note (2005) [hereinafter "Real ID Act"].

<sup>2</sup> *Id.* at §§201-207 (2005).

<sup>3</sup> *Id.*

<sup>4</sup> Dep't of Homeland Sec., *Notice of Proposed Rulemaking: Minimum Standards for Driver's licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes*, 72 Fed. Reg. 10, 845 (Mar. 1, 2007) [hereinafter "Real ID Draft Regulations"], available at [http://www.dhs.gov/xlibrary/assets/nprm\\_realid.pdf](http://www.dhs.gov/xlibrary/assets/nprm_realid.pdf). Key dates for Real ID implementation are as follows: (1) October 1, 2007: States unable to meet the statutory deadline of May 11, 2008 must file a request for an extension along with a plan for implementation; (2) February 10, 2008: States that are not applying for an extension must submit an application for certification to DHS; (3) May 11, 2008: Statutory compliance date; (4) December 31, 2009: Extension deadline. Implementation must be complete for states to be considered compliant by DHS; and (5) May 10, 2013: Following this date, non-compliant ID's will no longer be accepted for official federal purposes.

<sup>5</sup> National Governors Association, National Conference of State Legislatures and American Association of Motor Vehicle Administrators, *The Real ID Act: National Impact Analysis*, January 2005, available at <http://www.nga.org/Files/pdf/0609REALID.pdf>.

failed to solve many of Real ID's fundamental problems, including its high cost, the threat to Americans' privacy, and the increasing risk of identity theft created by the Act.

**I. The Real ID Act violates New Yorkers' privacy rights because it will create, for the first time in the nation's history, a national ID card, without improving security**

The database structures being put in place to support Real ID Act compliant driver's licenses are laying the groundwork for what will become a United States national identity card. Americans have long resisted the institution of this type of identity-tracking system, and this concern has fueled national bipartisan opposition to implementation of the Real ID Act.

Real ID's themselves are not what will make the national ID card—rather, it is the larger network of identity papers, databases, status and identity checks, and access and control points that could lead Real ID to becoming an “internal passport.” As time passes and the technology advances, we risk adding more and more functions and requirements for Real ID's until life without such an ID will become very difficult for Americans.

National ID's would violate Americans' privacy rights by helping to consolidate data and facilitate tracking by the government. There is an enormous and ever-increasing amount of data being collected about Americans today, but our privacy has actually been protected by the fact that all this information still remains scattered across many different databases, much of it in the private sector. Your grocery store, for example, may use a “loyalty card” to keep detailed records of what you buy, while Barnes and Noble may keep records of what you read, and the airlines keep track of where you fly. But once the government, landlords, employers, or other entities gain the ability to draw together all this information, our privacy will be destroyed. The end result could be a situation where citizens' movements inside their own country are monitored and recorded through these internal passports.

Creating a national identity card will not make New Yorkers safer. Over the past two years, security experts have repeatedly testified against the myth of Real ID security.<sup>6</sup> Bruce

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<sup>6</sup> See Jim Harper, U.S. Department of Homeland Security, Data Privacy and Integrity Advisory Committee, in Testimony before New Hampshire State Senate Committee on Public and Municipal Affairs, <http://www.cato.org/testimony/ct-jh041106.html>, Apr. 10, 2006 (“I have studied identification and identity cards carefully, and I want you to know that a national ID is neither a protection from terrorism nor a response to the attacks of September 11, 2001. A national ID would satisfy the federal government's demand for control — not Americans' genuine need for security and law enforcement”); see also Lt. Col. Margaret D. Stock, *Crackdown Wrong Approach; Driver's Licenses aren't Terror Tools; Real Immigration Reforms are Better Means of Identifying Potential Future Attackers*, Newsday, August 27, 2004 (“Our security depends on people—whether documented or undocumented—having the means to identify themselves and to cooperate with the police and other authorities...Our ability to locate terrorists is enhanced if law-enforcement officials in turn can find the people they are looking for—and driver's license databases are a useful tool for this purpose.”); see also Senator Lorraine Inouye (D-HI), (“The [Real ID] act will decrease, not increase, our national security...Real IDs will create a false sense of security in the people to whom the IDs are presented... Identification, false or otherwise, was not a big part of the planning or execution of the 9/11 attacks. The hijackers did little to hide their true identities. They entered the country on tourist visas, using valid passports. They used their own names with banks and did not use false Social Security numbers. Most terrorists rely on surprise and indifference to consequences, not anonymity. Magnetometers, X-ray machines and sensors work better than drivers' licenses in

Schneier, the founder of BT Counterpane—the world’s largest network data security firm—wrote in the *Bulletin of Atomic Scientists*: “Real ID is another lousy security trade-off. It’ll cost the United States at least \$11 billion and we won’t get much security in return...For the price, we’re not getting anywhere near the security we should.”<sup>7</sup>

Identity documents do not reveal anything about evil intent. Even with a reliable list of terrorists, the government will miss anyone who is not previously known to be a threat. The solution for real protection is improved intelligence and old-fashioned law enforcement techniques involving the investigation of known evidence. Determined terrorists will always be able to obtain fraudulent documents. Thousands of fraudulent driver’s licenses, for example, have been obtained by bribing state officials involved in identity-theft rings.<sup>8</sup>

Law-abiding Americans have the right to come and go when and where they please without fear that their government is watching over their every move. A massive web of identity databases and security checkpoints shared between the private and public sectors is simply un-American.

## **II. The Real ID Act will increase substantially the risk of identity theft for New Yorkers**

The Real ID Act will increase dramatically the risk of identity theft for all New Yorkers. The Real ID Act legislation and proposed regulations call for the creation of a single, integrated database that links department of motor vehicles agencies in all states, giving DMV officials in any state access to the entire country’s driver’s license information.<sup>9</sup> The various types of documentation needed to obtain a Real ID are required to be scanned and stored by New York’s Department of Motor Vehicles. This database could include Social Security Numbers, passport numbers, financial records, and other sensitive personal information. Such a database would essentially create a gold mine for identity thieves.

Nearly 10 million people, or 5 percent of U.S. adults, were victims of identity theft in 2002 alone, according to a U.S. Federal Trade Commission study.<sup>10</sup> The security problems with creating concentrated databases have been repeatedly demonstrated over the years—most recently in the rash of cases where information held by commercial database companies has fallen into the hands of identity thieves or others.<sup>11</sup> The government’s record at

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stopping terrorists.”); *see also* Melissa Ngo, Electronic Privacy Information Center, Testimony before Maryland Senate, [http://www.epic.org/privacy/id\\_cards/ngo\\_test\\_021507.pdf](http://www.epic.org/privacy/id_cards/ngo_test_021507.pdf), Feb. 15, 2007 (last visited April 9, 2007); *see also* Jim Harper, Testimony before the Utah House of Representatives Committee on Government Operations <http://www.cato.org/testimony/jh-mt-02132007.html>, Feb. 13, 2007 (last visited April 9, 2007).

<sup>7</sup> See Bruce Schneier, “Real-ID: Costs and Benefits,” Schneier on Security, available at [http://www.schneier.com/blog/archives/2007/01/realid\\_costs\\_an.html](http://www.schneier.com/blog/archives/2007/01/realid_costs_an.html) (last visited April 9, 2007).

<sup>8</sup> See Center for Democracy and Technology, “Unlicensed Fraud: How bribery and lax security at state motor vehicle offices nationwide lead to identity theft and illegal driver’s licenses,” January 2004, pp. 5-7; available at <http://www.cdt.org/privacy/20040200dmv.pdf> (last visited April 9, 2007).

<sup>9</sup> Real ID Act at §202(d)(12), *supra* note 1.

<sup>10</sup> “Identity Theft Survey Report,” prepared by Synovate for the Federal Trade Commission, September 2003, available at <http://www.ftc.gov/os/2003/09/synovatereport.pdf>.

<sup>11</sup> In February 2005, the data company ChoicePoint disclosed that it sold records on thousands of Americans to identity thieves. In particular, it sold significant amounts of personal information on 145,000 consumers to a

information security is little better; DMV employees around the country have repeatedly been caught in corruption schemes such as selling fraudulent licenses or data to identity thieves.<sup>12</sup>

The risk of identity theft would be higher under the Real ID database scheme because there would be more access points around the country for thieves to take advantage of and therefore more potential for human error or human mal-intent. Furthermore, the consequences of such a security breach or even of a person losing their Real ID would be greater than ever before as thieves or potential terrorists would now have access to more information.<sup>13</sup>

Additionally, the requirement that Real ID's contain a "machine-readable zone" leaves glaring opportunities for businesses to quickly and easily scan a Real ID compliant driver's license, obtain all of the information contained in it, and then potentially sell it to other interested businesses or data brokers. Also, while it is not currently required, Real ID's will be designed with the potential to include Radio-frequency identification ("RFID") chips, facial recognition capabilities, and biometric data, increasing the dangers of private sector access to Real ID information.<sup>14</sup>

Some of these fears would surely have been allayed had the DHS regulations released on March 1 included guidance for states on privacy protections. Instead, on the issue of protecting the information stored in Real ID's, the DHS claims that it is "outside its authority to address this issue" and leaves it up to the states to solve the problem.<sup>15</sup> The DHS regulations do not even require that states use encryption keys to protect the machine-readable zones of Real ID's from identity thieves or private sector "skimmers."<sup>16</sup> After taking almost two years to devise and write regulations for Real ID implementation, the DHS was still unable to create an effective data protection and privacy scheme.

### **III. The Real ID Act will be a bureaucratic nightmare for citizens and state officials and will lead to thousands of eligible New Yorkers losing vital government services**

For everyday New Yorkers, the Real ID Act will mean higher fees, greater inconveniences, and logistical nightmares. All citizens who will want to use a Real ID

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group of identity thieves in California, resulting in at least 700 known cases of fraud and identity theft. For more information, log onto <http://www.aclu.org/privacy/consumer/15301leg20050310.html> (last visited April 8, 2007).

<sup>12</sup> *Supra* note 7.

<sup>13</sup> An estimated 20 percent of all identity documents are lost per year. *See* Schneier, *supra* note 6.

<sup>14</sup> With the dramatic increase in personal information that could be included in Real ID's, the dangers of private-sector privacy invasions will grow accordingly. With access to bio-data, private sector entities would have vastly more information about New Yorkers.

<sup>15</sup> Real ID Draft Regulations at 10837, *supra* note 2.

<sup>16</sup> *See* Real ID Draft Regulations at 10838, *supra* note 2. In the DHS proposed regulations on Real ID, the DHS expresses concern about the potential for private sector entities—bars and nightclubs, for example—having the ability to easily access and keep information from Real ID's via widely-accessible technology that allows anybody to read information from 2-D barcodes. Despite this concern, DHS does not require states to encrypt data on Real IDs—preventing bars from being able to skim this information—leaving vast amounts of private, personal information open to identity thieves and private sector databases.

driver's license will have to go in person to the DMV to prove their identity and citizenship. Because of the new demands on DMV staff, New Yorkers will confront much slower service, longer lines, vastly increased numbers of technical glitches, and the likely need for repeat visits to the DMV.

In order to receive a Real ID compliant driver's license, United States citizens will have to provide the following information to the Department of Motor Vehicles: (1) a photo identification document, or a non-photo document if it includes both the person's full legal name and date of birth; (2) documentation of the person's date of birth; (3) proof of the person's Social Security Number or proof that the applicant is ineligible for a Social Security Number; (4) documentation proving a person's name and principal address; and (5) evidence of the applicant's lawful status in the United States.<sup>17</sup> Should an individual be unable to provide the above documents, New York State will be unable to issue that person a Real ID compliant driver's license.

Thousands of unlucky citizens will undoubtedly find themselves caught in a bureaucratic mess and lose their driving privileges, as well as vital federal services, because they will not have the proper documentation needed to obtain a Real ID. New Yorkers who lose their records due to fires, floods or natural disasters will find themselves unable to provide sufficient documents for a Real ID.

A November 2006 study by the Brennan Center for Justice found that as many as 7 percent of voting-age United States citizens do not have ready access to documents that prove their citizenship status.<sup>18</sup> The study found that even among those who did have access to citizenship documentation, millions of Americans do not have access to documents that reflect their current legal name.<sup>19</sup> For example, the study found that only 48 percent of voting-age American women with access to their birth certificate have a certificate with their legal name, as opposed to their pre-marriage name.<sup>20</sup> The study also found that low income Americans are much less likely to possess citizenship documents. At least 12 percent of United States citizens earning less than \$25,000 a year do not have access to documents that prove their citizenship status.<sup>21</sup>

The recent experience of United States citizens subject to new Medicaid documentation requirements illustrates the gravity of the above problem. A federal requirement implemented last year in order to prevent undocumented immigrants from receiving Medicaid has led instead to tens of thousands of United States citizens losing their Medicaid benefits because of difficulty producing documents, such as birth certificates, required to prove their citizenship status.<sup>22</sup> The same thing will happen should the Real ID Act be implemented.

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<sup>17</sup> Real ID Act at §202(c), *supra* note 1.

<sup>18</sup> Brennan Center for Justice, *Citizens Without Proof: A Survey of Americans' Possession of Documentary Proof of Citizenship and Photo Identification* (2006), available at [http://www.brennancenter.org/dynamic/subpages/download\\_file\\_39242.pdf](http://www.brennancenter.org/dynamic/subpages/download_file_39242.pdf).

<sup>19</sup> *Id.* at 2.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> Robert Pear, *Lacking Papers, Citizens Are Cut From Medicaid*, *The New York Times*, March 12, 2007.

#### **IV. The Real ID Act turns local Department of Motor Vehicle offices into immigration enforcement agencies to the detriment of hundreds of thousands of immigrant New Yorkers**

The Real ID Act will turn department of motor vehicles offices across the country into immigration enforcement agencies. Under the Act, DMV agents will be responsible for making complicated judgments about a person's lawful status in the United States, and verify the validity and completeness of immigration documents.<sup>23</sup>

It is inappropriate and dangerous for the Department of Motor Vehicles to act as an enforcement arm of the federal immigration system. First, it is outside the traditional jurisdiction of New York State officials to be responsible for enforcing federal immigration law, which is the responsibility of the federal government. While state officials may have reasonable grievances over the federal government's handling of its immigration responsibilities, it is not the place of state government to assume the responsibilities of the federal government.

Second, involving state agencies in federal immigration law enforcement will fuel distrust between New York's immigrant communities and state government because of the fear that a minor interaction with a government official will result in deportation, or the deportation of a family member. Immigrant residents will fear reporting crimes or coming in contact with social services offices. Entire communities will be driven underground. Mayor Michael Bloomberg understood this concern when in 2003 he issued Executive Order 41, which prohibits New York City employees from asking for a person's immigration status, or informing the federal government of a person's immigration status, with few exceptions.

Third, deputizing the Department of Motor Vehicles to become an immigration enforcement agency will lead to a rise in discrimination against individuals who may be deemed suspect because of their country of origin, regardless of their actual citizenship status. Department of Motor Vehicles agents may be reluctant to authorize driver's licenses for individuals from certain ethnic backgrounds, and subject such individuals to additional scrutiny, in fear of violating the Real ID Act requirements. For example, following the passage of the Immigration Reform and Control Act of 1986, which mandated that employers verify the immigration status of their employees, there was a substantial increase in discrimination by employers.<sup>24</sup>

As you have noted in the past, restricting immigrants' access to driver's licenses is bad public safety policy because it sends immigrants further into the shadows and keeps them distanced from public safety and law enforcement officials.<sup>25</sup> New Yorkers, regardless of

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<sup>23</sup> Real ID Act at §202(c)(3)(A), *supra* note 1.

<sup>24</sup> The General Accounting Office found that more than 10% of the 4.6 million employers surveyed practiced national origin discrimination. United States General Accounting Office, 1990, "Immigration Reform: Employer Sanctions and the Question of Discrimination," Report to Congress, GAO/GGD-90-62, Washington, DC, available at <http://archive.gao.gov/d24t8/140974.pdf>.

<sup>25</sup> Statement by Spokesperson Christine Anderson, *Polish Daily News*, Jan. 23, 2007.

immigration status, must have access to driver's licenses in order to create safe roadways, allow employees to reach their workplaces, earn money, and provide food and shelter for their families.

It has been proposed that New York establish a two-tiered driver's license system, where those who are able to prove their lawful immigration status will be eligible for one type of driver's license while others will receive a different license. This system would be disastrous for New York State and must be rejected. While we appreciate the desire to fix a Pataki-era policy of prohibiting undocumented immigrants from driving in New York State, a two-tiered system will not solve the problems associated with deputizing the Department of Motor Vehicles to become an immigration enforcement agency, and may in fact lead to further discrimination against immigrants.

First, stamping a "scarlet letter" of undocumented status onto certain immigrants' driver's licenses will lead to widespread discrimination against and mistrust between immigrant communities and law enforcement officials. With one's immigration status identified prominently on a second-tier ID card, which the Real ID would require,<sup>26</sup> undocumented communities will surely be far less likely to trust or communicate with police, fire, medical, and other state and local officials. Second, even if a two-tiered system included driver's licenses that appear to be identical for both tiers, it would still create the problem of the Department of Motor Vehicles acting as an immigration enforcement agency.

There must be one driver's license for all New Yorkers, and an individual's immigration status should play no role in determining eligibility for a driver's license. An individual's ability to drive, not his or her immigration status, should determine eligibility for a driver's license.

#### **V. The Real ID Act is an unfunded mandate that will divest New York State from important antiterrorism initiatives**

The federal government has left states with the burden of shouldering the implementation costs of the Real ID Act, including the requirement that states remake their driver's licenses, restructure their driver's license databases, create an extensive new document-storage system, and considerably expand their security measures.

While the National Conference of State Legislatures originally estimated that the cost of Real ID implementation would reach \$11 billion nationally, the DHS Regulations on Real ID project a cost as high as \$23 billion nationally with the majority of that money slated to come from state budgets.<sup>27</sup> Taking into account New York's population and the size of its DMV system, New York's implementations costs will certainly reach hundreds of millions of dollars. This is a drain on New York's budget that takes desperately needed funds from other crucial areas.

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<sup>26</sup> Real ID Draft Regulations at 10837, *supra* note 4 ("States must also differentiate non-REAL ID driver's licenses and identification cards from REAL ID driver's license and identification cards by incorporating a unique design or color indicator to alert Federal agencies and other law enforcement personnel that it may not be accepted for Federal official purposes pursuant to this regulation.")

<sup>27</sup> Real ID Draft Regulations at 10845, *supra* note 4.

The costs associated with the Real ID Act will be borne not only by states, but by individuals as well. In testimony before the Senate Homeland Security and Governmental Affairs Committee, DHS Secretary Chertoff testified, “I think the concept, though, was that this—like all driver's licenses—is largely a fee-based system, and that, ultimately, the cost of building Real ID should be amortized over the driver's license fee.”<sup>28</sup> When added to the many additional hours New Yorkers are likely to spend in line at the DMV, Real ID will surely cause millions of New Yorkers great distress and frustration.

Federal officials have stated that they expect some of the costs to pay for Real ID Act implementation to come out of scarce homeland security funding already allocated to the states. During the news conference announcing the release of the Real ID regulations, Secretary Chertoff stated that up to 20 percent of a state’s homeland security funding allocation for this fiscal year will be available for Real ID Act implementation.<sup>29</sup> New York State has been fighting hard for its fair share of homeland security funding and should not be short-changed because of another unfunded federal mandate.

## **Conclusion**

In light of the many concerns we’ve raised above, we strongly encourage you to take this opportunity to reaffirm New York’s commitment to privacy, civil liberties, security, and immigrants’ rights by declaring New York State’s opposition to implementation of the Real ID Act.

The Real ID Act will have a negative impact on a number of important constituencies in New York: workers and labor groups, immigrant communities, industries that rely heavily on immigrant labor (manufacturing, agriculture, service, etc.), the elderly, civil libertarians, low income communities, and others. The cost associated with Real ID would have to be assumed by all New Yorkers through heightened licensing fees and greater administrative burdens. All New Yorkers would also run the risk of increased identity theft and privacy invasions.

With the national debate over this issue growing across the country, New York’s decision will play a significant role in shaping the future of the Real ID Act. Five states have already declared their opposition to implementation of the Real ID Act, and more will follow. New York should be at the forefront of this bipartisan opposition.

We urge that the Spitzer administration play a national leadership role in opposing implementation of the Real ID Act. Assuming such a leadership role against Real ID may be as simple as making a statement about the troubling provisions of the law, which are outlined

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<sup>28</sup> Sec. Michael Chertoff, Testimony before U.S. Senate Homeland Security and Governmental Affairs Committee, Hearing on FY2008 Budget, February 13, 2007.

<sup>29</sup> Press Release, Department of Homeland Security, DHS Issues Proposal for States to Enhance Driver’s Licenses (Mar. 1, 2007), available at [http://www.dhs.gov/xnews/releases/pr\\_1172765989904.shtm](http://www.dhs.gov/xnews/releases/pr_1172765989904.shtm) (last visited April 9, 2007); see also “Remarks by Secretary Chertoff at a Press Conference on REAL ID,” available at [http://www.dhs.gov/xnews/releases/pr\\_1172834392961.shtm](http://www.dhs.gov/xnews/releases/pr_1172834392961.shtm) (last visited April 9, 2007).

above, and declining to implement it until these problems can be addressed. Such a statement could also be to call for the state to undertake a serious study of what the Real ID Act will cost for New York, a step several other states have taken.<sup>30</sup> A stronger position would be to issue an executive order directing the Department of Motor Vehicles not to implement the Real ID Act. This action, which could be undertaken along with supporting concurrent legislation, would effectively take New York out of the national program and allow it the flexibility to determine its own security plan.

Thank you for your consideration of our concerns. We look forward to hearing your position on this issue. Please contact Udi Ofer by phone at 212-607-3342 or by email at [uofer@nyclu.org](mailto:uofer@nyclu.org).

Sincerely,

Donna Lieberman  
Executive Director

Udi Ofer  
Legislative Counsel

Ari Rosmarin  
Field Organizer

cc: Patricia Smith, Commissioner, Department of Labor  
Michael Balboni, Deputy Secretary for Public Safety  
David Swarts, Commissioner, Department of Motor Vehicles  
Lorraine A. Cortés-Vázquez, Secretary of State  
Assembly Speaker Sheldon Silver  
Senate Majority Leader Joseph Bruno  
Assembly Majority Leader Ron Canestrari  
Senate Minority Leader Malcolm Smith  
Assembly Minority Leader James Tedisco  
Senator Eric Schneiderman  
Assemblyman Peter Rivera, Chairman, Puerto Rican/Hispanic Task Force  
Assemblyman Vito J. Lopez, Co-Chairman, Puerto Rican/Hispanic Task Force  
Assemblyman Daryl Towns, Chair, Black, Puerto Rican, Hispanic & Asian Caucus  
Assemblyman David Gantt, Chair, Transportation Committee  
Senator Tom Libous, Chair, Transportation Committee  
Assemblywoman Joan Millman, Chair, Commission on Government Administration  
Assemblyman Felix Ortiz  
Assemblyman Adriano Espaillat

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<sup>30</sup> Those cost estimates and an ACLU white paper outlining the what states must consider in assessing the financial impact of Real ID are available at <http://www.realnighmare.org/about/102/>.