

## Senate Bill 5

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

A BILL TO BE ENTITLED  
AN ACT

1 To state findings of the General Assembly regarding the Real ID Act; to amend Article 1 of  
2 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to general  
3 provisions regarding drivers' licenses, so as to permit the Governor of Georgia to delay  
4 implementing the requirements of the Real ID Act until the Department of Homeland  
5 Security has issued regulations that the Governor finds will adequately protect the interests  
6 of the citizens of Georgia; to amend Article 2 of Chapter 5 of Title 40 of the Official Code  
7 of Georgia Annotated, relating to issuance, expiration, and renewal of drivers' licenses, so  
8 as to require the presentation of secure and verifiable documents for purposes of obtaining  
9 a driver's license; to provide for related matters; to provide for an effective date; to repeal  
10 conflicting laws; and for other purposes.

11 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

12 **SECTION 1.**

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

1 Because the Real ID Act was attached to a vital supplemental spending bill for defense  
2 and tsunami relief, there was no opportunity for a full examination of the consequences of  
3 the proposal. While everyone recognizes the need to make identifying documents as secure  
4 as is humanly possible, the one-size-fits-all approach required by the Real ID Act may  
5 actually increase the documents' vulnerability to counterfeiting. If criminals are able to  
6 invade one state's system, they may have access to all states' systems. On another front,  
7 a report from the National Conference of State Legislatures, the National Governors  
8 Association, and the American Association of Motor Vehicle Administrators suggests that  
9 the new requirements of the Real ID Act will cost states at least \$11 billion over the first  
10 five years of the program. Despite this massive price tag, there has been no money  
11 appropriated to help states meet the law's demands.

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

30 The citizens of Georgia also recognize the importance of ensuring that drivers' licenses  
31 are issued only to persons legally present in this state. Therefore, the use of secure and  
32 verifiable identification will be required in this state in order to obtain a driver's license.  
33 This requirement is in harmony with the intent of the Real ID Act to secure identification  
34 processes in this country.

**SECTION 2.**

Article 1 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to general provisions regarding 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."

**SECTION 3.**

Article 2 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to issuance, expiration, and renewal of drivers' licenses, is amended by adding a new Code section to read as follows:

"40-5-21.2.

(a) This Code section shall be known and may be cited as the 'Secure and Verifiable Identity Document Act.'

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

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

(2) 'Secure and verifiable document' means a document issued by the federal government of the United States, issued by the government of any one of the several United States, or recognized by the government of the United States and that is verifiable by federal or state law enforcement, intelligence, or homeland security agencies.

(c) The department shall not accept, rely upon, or utilize an identification document for purposes of providing any service unless it is a secure and verifiable document.

(d) The department shall not issue an identification card, license, permit, or other official document for which an identification document is required and shall not authorize acceptance of an identification document unless such identification document is a secure and verifiable document.

(e) Actions taken in knowing violation of this Code section shall not be within the scope of a public official's official duties or employment for purposes of any immunity from suit, including without limitation immunity under subsection (a) of Code Section 50-21-25.

(f) This Code section shall not apply to:

(1) Any department official or employee:

(A) Accepting a crime report or reporting a crime;

- 1 (B) Conducting a criminal investigation; or  
2 (C) Providing emergency medical service; or  
3 (2) Instances when a federal law mandates acceptance of a document.”

4 **SECTION 4.**

5 This Act shall become effective upon its approval by the Governor or upon its becoming law  
6 without such approval.

7 **SECTION 5.**

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