

OFFICE OF THE GOVERNOR
STATE OF MONTANA

BRIAN SCHWEITZER
GOVERNOR



JOHN BOHLINGER
LT. GOVERNOR

January 18, 2008

Governor John Lynch
State House, Room 208
107 N. Main Street
Concord, NH 03301

Dear Governor Lynch:

John

As you know, the U.S. Department of Homeland Security promulgated final regulations for the implementation of the Real ID Act [Public Law 109-13] on January 11. These regulations not only fail to resolve any of the major problems inherent in the poorly drafted Real ID Act, they attempt to punish non-compliant states by threatening that our driver's licenses will not be accepted as proof of identity to board a commercial airplane or enter a federal building as of May 11 of this year – even though states that promise to comply will receive waivers that will allow their citizens to fly without Real ID-compliant cards until 2014.

Last year, the Montana Legislature unanimously passed, and I signed, a bill to prevent our state from participating in Real ID [Mont. Code. Ann. sec. 61-5-128 (2007)]. We recognized that Real ID was a major threat to the privacy, constitutional rights, and pocketbooks of ordinary Montanans. We now have a strong law on the books barring implementation in our state.

Our efforts last year were bolstered by action in New Hampshire and I wish to thank you for standing with us against Real ID. We sent a strong message to Washington that this unfunded mandate needed to be repealed, and I'm proud to say Montana's two U.S. senators have gotten behind efforts to do just that at the federal level.

Today, I am asking you to join with me in resisting the DHS coercion to comply with the provisions of REAL ID. Secretary Chertoff has stated that every state must file an extension within 60 days of the final rule publication or he will, beginning on May 11 this year, direct the Transportation Security Agency and other federal offices to subject the citizens of non compliant states to secondary screening every time they wish to board a commercial aircraft or enter a federal office building. I would like us to speak with one, unified voice and demand that Congress step in and fix this mess.

The bipartisan bill supported by our senators, the Identification Security Enhancement Act, S.717, is a compelling alternative to Real ID, and is cosponsored by an additional four senators from both parties. The identical companion bill, H.R. 1117 authored by Rep. Tom Allen (D-ME), is cosponsored by 32 representatives. It reinstates a negotiated rulemaking process that was on track to improve ID security, and would have been completed several years ago if it had not been repealed by the passage of the Real ID Act. That cooperative rulemaking process bringing together the states, representatives of key federal government agencies and interested technology experts and privacy advocates, could result in a secure ID faster than the Real ID Act, which under the DHS rule will not be fully implemented until 2017.

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Secretary Chertoff's remarks yesterday, albeit about WHTI, not Real ID, reflect DHS continued disrespect for the serious and legitimate concerns of our citizens. I take great offense at his suggestion we should all simply "grow up." Please do not accept the Faustian bargain of applying for the DHS extension. If we stand together, either DHS will blink or Congress will have to act to avoid havoc at our nation's airports and federal courthouses.

Further, if you are interested in joining with me in a statement affirming our opposition to Real ID and our support of the Congressional alternatives, please contact Sheena Wilson of my staff at 406-444-5503 or swilson@mt.gov. Thank you.

Sincerely,


BRIAN SCHWEITZER
Governor