

By: Representatives Broomfield, Bailey,
Banks, Burnett, Cockerham, Evans (70th),
Fredericks, Lane, Mayo, Myers, Peranich,
Puckett, Scott, Whittington

To: Transportation;
Appropriations

HOUSE BILL NO. 302

1 AN ACT TO DIRECT THE GOVERNOR OF THE STATE OF MISSISSIPPI TO
2 REQUEST THE FEDERAL GOVERNMENT FOR A DELAY IN COMPLIANCE BY THE
3 STATE WITH THE FEDERAL REAL ID ACT OF 2005 AND TO DIRECT THE
4 GOVERNOR TO INSTRUCT THE COMMISSIONER OF PUBLIC SAFETY AND THE
5 DEPARTMENT OF PUBLIC SAFETY NOT TO IMPLEMENT THE PROVISIONS OF THE
6 REAL ID ACT UNTIL SUFFICIENT FUNDS ARE PROVIDED AND CERTAIN
7 ASSURANCES ARE MADE TO THE STATES; AND FOR RELATED PURPOSES.

8 WHEREAS, in May 2005, the United States Congress enacted the
9 REAL ID Act of 2005 (REAL ID Act) as part of the Emergency
10 Supplemental Appropriations Act for Defense, the Global War on
11 Terror, and the Tsunami Relief Act (Public Law 109-13), which was
12 signed by President Bush on May 11, 2005, and which becomes fully
13 effective May 11, 2008; and

14 WHEREAS, some of the requirements of the REAL ID Act are that
15 states shall:

16 (a) Issue a driver's license or state identification card in
17 a uniform format, containing uniform information, all as
18 prescribed by the Department of Homeland Security;

19 (b) Verify the issuance, validity, and completeness of all
20 primary documents used to issue a driver's license, such as those
21 showing that the bearer is a United States citizen or a lawful
22 alien, a lawful refugee or a person holding a valid visa;

23 (c) Provide for secure storage of all primary documents that
24 are used to issue a federally approved driver's license or state
25 identification card;

26 (d) Provide fraudulent document recognition training to all
27 persons engaged in issuing driver's licenses or state
28 identification cards; and



29 (e) Issue a driver's license or state identification card in
30 a prescribed format if it is a license or card that does not meet
31 the criteria provided for a federally approved license or
32 identification card; and

33 WHEREAS, under the REAL ID Act, use of the federal minimum
34 standards for state driver's licenses and state-issued
35 identification cards will be necessary for any type of federally
36 regulated activity for which an identification card must be
37 displayed, including flying in a commercial airplane, making
38 transactions with a federally licensed bank, entering a federal
39 building, or making application for federally supported public
40 assistance benefits, including Social Security; and

41 WHEREAS, some of the intended privacy requirements of the
42 REAL ID Act, such as the use of common machine-readable technology
43 and state maintenance of a database that can be shared with the
44 United States and agencies of other states, may actually make it
45 more likely that a federally required driver's license or state
46 identification card, or the information about the bearer on which
47 the license or card is based, will be stolen, sold, or otherwise
48 used for purposes that were never intended or that are criminally
49 related than if the REAL ID Act had not been enacted; and

50 WHEREAS, these potential breaches in privacy that could
51 result directly from compliance with the REAL ID Act may violate
52 the right to privacy of thousands of residents of Mississippi; and

53 WHEREAS, the American Association of Motor Vehicle
54 Administrators, the National Governors' Association, and the
55 National Conference of State Legislatures have estimated, in an
56 impact analysis dated September 2006, that the cost to the states
57 to implement the REAL ID Act will be more than \$11 billion over
58 five (5) years, none of which costs are or will be paid for by the
59 federal government; and

60 WHEREAS, for all of these reasons, the American Association
61 of Motor Vehicle Administrators, the National Governors'



62 Association, and the National Conference of State Legislatures, in
63 a letter dated March 17, 2005, to the majority and minority
64 leaders of the United States Senate, opposed the adoption of the
65 REAL ID Act, but the opposition of those groups, and the groups'
66 request that Congress rely on driver's license security provisions
67 already passed by Congress in the Intelligence Reform and
68 Terrorism Prevention Act of 2004, was largely ignored by Congress;
69 and

70 WHEREAS, the regulations required to be adopted by the United
71 States Department of Homeland Security to implement the
72 requirements of the REAL ID Act were only finalized on January 11,
73 2008, effectively giving the states only three (3) months in which
74 to become familiar with the implementing regulations and comply
75 with those regulations and the requirements of the REAL ID Act;
76 and

77 WHEREAS, the mandate to the states, through federal
78 legislation that provides no funding for its requirements, to
79 issue what is, in effect, a national identification card appears
80 to be an attempt to "commandeer" the political machinery of the
81 states and to require them to be agents of the federal government,
82 in violation of the principles of federalism contained in the 10th
83 amendment to the United States Constitution, as construed by the
84 United States Supreme Court in New York v. United States, 488
85 UNITED STATES 1041 (1992), United States v. Lopez, 514 United
86 States 549 (1995), and Printz v. United States, 521 United States
87 898 (1997); and

88 WHEREAS, seventeen (17) states, so far, have passed laws or
89 resolutions objecting to prohibiting compliance with the REAL ID
90 Act's provisions, including Arkansas, Colorado, Georgia, Hawaii,
91 Idaho, Illinois, Maine, Missouri, Nebraska, Nevada, New Hampshire,
92 North Dakota, Oklahoma, South Carolina, Tennessee and Washington;
93 NOW, THEREFORE,

94 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:



95 **SECTION 1.** The Governor of the State of Mississippi is
96 directed to request a delay from the federal government for
97 compliance with the federal REAL ID Act of 2005 (Public Law Number
98 109-13), and shall direct the Commissioner of Public Safety and
99 the Department of Public Safety not to implement the provisions of
100 the REAL ID Act of 2005 until it is expressly guaranteed by the
101 United States Department of Homeland Security, through adequately
102 defined safeguards, that sufficient funds will be provided for
103 Mississippi and the other states to comply with the act and that
104 implementation of the REAL ID Act of 2005 will not compromise the
105 economic privacy or biological sanctity of any citizen or resident
106 of the State of Mississippi.

107 **SECTION 2.** This act shall take effect and be in force from
108 and after its passage.

