

MAINE STATE LEGISLATURE

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Date: 4/6/17

Minority

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TRANSPORTATION

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STATE OF MAINE

SENATE

128TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "B" to S.P. 92, L.D. 306, Bill, "An Act To Require State Compliance with Federal REAL ID Guidelines"

Amend the bill by striking out the title and substituting the following:

'Resolve, Directing the Secretary of State To Apply for an Extension under the Federal REAL ID Act of 2005'

Amend the bill by striking out everything after the title and before the summary and inserting the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the federal REAL ID Act of 2005 was attached to a conference report on must-pass legislation regarding Iraq war funding and relief for the 2004 tsunami, bypassed state and stakeholder input and established robust measures for issuing licenses and nondriver identification cards; and

Whereas, the federal REAL ID Act of 2005 has never been funded to any significant degree by the Federal Government, and the Maine Secretary of State has estimated the state cost of REAL ID compliance will be between \$2,000,000 and \$3,000,000 of state funds; because of that, and the broad scope of federal intrusion into a process historically managed by the states, the Act was made voluntary for the states. However, now, the effect of noncompliance is that citizens in noncompliant states are not able to use their noncompliant credentials to access many federal or federally controlled facilities and services and soon will not be able to board commercial aircraft; and

Whereas, the United States Department of Homeland Security has refused to extend the State of Maine's waiver and, as a result, Maine driver's licenses and nondriver identification cards are no longer accepted to access federal facilities as of January 30, 2017 and will no longer be accepted to board commercial flights as of January 22, 2018, and anyone who is eligible for a REAL ID compliant driver's license or nondriver identification card is also eligible for other forms of identification that are accepted to access federal facilities and board commercial aircraft, namely passport books and

COMMITTEE AMENDMENT

1 passport cards, which are valid for a period of 10 years for residents 16 years of age and
2 older; and

3 **Whereas**, Maine lawmakers continue to be appalled by the abrogation of the privacy
4 and civil liberties of American citizens under the federal REAL ID Act of 2005 and even
5 more appalled by the Act's lack of effectiveness in achieving its stated goals, which are to
6 prevent future terrorist attacks in America and to prevent undocumented immigrants who
7 come to America without clearance from enjoying the benefits of citizenship illegally.
8 There is nothing in the Act's implementation that will achieve either of these goals; and

9 **Whereas**, the Maine Department of Labor, less than a year ago, outsourced its
10 federally mandated job-matching service to an out-of-state vendor, and recently that
11 vendor has suffered a serious data breach in which an unknown number of Maine
12 residents' most sensitive personal information, including names, dates of birth and social
13 security numbers, was stolen, demonstrating the weakness of cybersecurity and the
14 vulnerability of Maine residents and United States citizens to hacking and theft of
15 sensitive data across the State and the nation, making it highly unlikely that the State of
16 Maine can assure its residents with confidence that any database established pursuant to
17 the requirements of the federal REAL ID Act of 2005 would, in fact, be safe and secure;
18 and

19 **Whereas**, Maine has a long, proud tradition of standing up for the fundamental right
20 to privacy and it is the responsibility of the Legislature to look beyond the inconveniences
21 of the day and consider the long-term effects and unintended consequences of complying
22 with the federal REAL ID Act of 2005, which will have broad and far-reaching
23 consequences for every American in the future; and

24 **Whereas**, in the judgment of the Legislature, these facts create an emergency within
25 the meaning of the Constitution of Maine and require the following legislation as
26 immediately necessary for the preservation of the public peace, health and safety; now,
27 therefore, be it

28 **Sec. 1. Secretary of State to request a waiver. Resolved:** That, upon
29 adjournment of the One Hundred Fifteenth United States Congress, the Secretary of State
30 shall request a waiver of the requirements of the federal REAL ID Act of 2005 from the
31 United States Department of Homeland Security pending the results of federal legislation
32 relating to the federal REAL ID Act of 2005; and be it further

33 **Sec. 2. Secretary of State to establish process to provide passport cards**
34 **or passport books to residents requiring assistance. Resolved:** That, beginning
35 July 1, 2017 and ending June 30, 2019, the Secretary of State shall provide residents of
36 the State who require financial assistance an opportunity to obtain a United States
37 Department of State passport card or passport book upon completing an application and
38 meeting specified criteria as determined by the Secretary of State. In lieu of the expected
39 costs of implementation of the federal REAL ID Act of 2005, the Secretary of State shall
40 provide funding, in an amount up to \$3,000,000, to make available United States
41 Department of State passport cards or passport books to residents of the State who qualify
42 under this section. The Secretary of State shall pay the cost of a United States
43 Department of State passport card or passport book for a person who qualifies under this
44 section and who:

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1. Does not have the required photographic identification to access federal or federally controlled facilities or to board commercial aircraft; and

2. Demonstrates significant financial hardship, making the fee for a passport card or passport book cost-prohibitive; and be it further

Sec. 3. Secretary of State to administer an educational campaign. Resolved: That the Secretary of State shall administer an educational campaign that informs residents of the State about the requirements of the federal REAL ID Act of 2005, the availability of United States Department of State passport cards and passport books as an option to access federal facilities and commercial aircraft and the opportunity for residents of the State who require financial assistance to apply for a state-funded passport card or passport book. The Secretary of State shall make the information available on a publicly accessible website and develop a pamphlet for public distribution on the topics under this section; and be it further

Sec. 4. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

**SECRETARY OF STATE, DEPARTMENT OF
Administration - Motor Vehicles 0077**

Initiative: Provides a one-time allocation to issue passport cards and passport books.

HIGHWAY FUND	2017-18	2018-19
All Other	\$3,156,180	\$0
HIGHWAY FUND TOTAL	\$3,156,180	\$0

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.'

SUMMARY

This amendment, which is the minority report, strikes the bill and replaces it with a resolve. The amendment requires the Secretary of State to request a waiver of the requirements of the federal REAL ID Act of 2005 from the United States Department of Homeland Security pending the results of federal legislation. The amendment requires the Secretary of State to establish a process to provide a passport card or passport book to residents of Maine who do not have the required photographic identification to access federal or federally controlled facilities or to board commercial aircraft and demonstrate significant financial hardship, making the fee for a passport card or passport book cost-prohibitive. The amendment also requires the Secretary of State to administer an educational campaign about the requirements of the federal REAL ID Act of 2005 and the availability of the United States Department of State passport cards and passport books as an option to access federal facilities and commercial aircraft and the opportunity for Maine residents who require financial assistance to apply for a state-funded passport card or passport book. The funds for these purposes are in an amount approximately

1 equal to the Secretary of State's estimated cost of up to \$3,000,000 to implement the
2 federal REAL ID Act of 2005. The amendment also adds an emergency preamble and
3 emergency clause and provides a one-time allocation to the Secretary of State to issue
4 passport cards and passport books.

5 **FISCAL NOTE REQUIRED**

6 (See attached)



128th MAINE LEGISLATURE

LD 306

LR 1220(03)

An Act To Require State Compliance with Federal REAL ID Guidelines

Fiscal Note for Bill as Amended by Committee Amendment "B"

Committee: Transportation

Fiscal Note Required: Yes

(S-18)

Fiscal Note

	FY 2017-18	FY 2018-19	Projections FY 2019-20	Projections FY 2020-21
Net Cost (Savings)				
Highway Fund	\$3,156,180	\$0	\$0	\$0
Appropriations/Allocations				
Highway Fund	\$3,156,180	\$0	\$0	\$0

Fiscal Detail and Notes

The bill includes a one-time Highway Fund allocation to the Department of Secretary of State to issue passport books and passport cards. Additional costs to the Department of Secretary of State associated with establishing and administering an educational campaign can be absorbed within existing budgeted resources.