ACLU

AMERICAN CIVIL LIBERTIES UNION

Maine

PO Box 7860
Portland, ME 04112

(207) 774-5444
ACLUMaine.org
@ACLUMaine

TESTIMONY OF MICHAEL KEBEDE, ESQ.
LD 160 – Ought to Pass
LD 1360 – Neither for Nor Against

An Act to Eliminate REAL ID Requirements in Maine

**An Act to Preserve Traditional Driver's Licenses and
Nondriver Identification Cards**

Joint Standing Committee on Transportation
April 15, 2025

Senator Nangle, Representative Crafts, and distinguished members of the Joint Standing Committee on Transportation, greetings. My name is Michael Kebede, and I am Policy Director at the ACLU of Maine, a statewide organization committed to advancing and preserving civil rights and civil liberties guaranteed by the Maine and U.S. Constitutions. On behalf of our members, we urge you to support LD 160. We are neither for nor against LD 1360, which, although intended to give Maine residents a non-REAL-ID option, might still expose them to the privacy risks of the REAL ID system.

If enacted, LD 160 would repeal the law that empowers the Secretary of State to issue identification cards that are compliant with the federal REAL ID Act of 2005.[1] LD 1360 would ensure that Maine residents who want an ID that is not compliant with the REAL ID Act can always obtain one from the Secretary of State.

Background

The REAL ID Act (or "the Act") was passed by Congress as part of an Iraq War/Tsunami relief supplemental funding bill in May 2005. The U.S. Senate did not hold even a single hearing on the bill. REAL ID imposes a burdensome set of requirements on states as part of its aim to turn Americans' driver's licenses into a national identity card system.

In January 2007, Maine became the first state in the nation to reject the REAL ID Act when an overwhelming bipartisan majority of the 123rd Legislature supported an anti-REAL ID resolution.[2] Over 20 other states followed suit in pushing back as a rebellion against REAL ID took off across the country. In 2017, faced with growing federal determination to impose

---

[1] 2005, Public Law 109-13, *available at* https://www.govinfo.gov/content/pkg/PLAW-109publ13/pdf/PLAW-109publ13.pdf.
[2] LD 1138, An Act To Prohibit Maine from Participating in a National Identification Card System, 123rd Maine Legislature, 2007, available at
https://lldc.mainelegislature.org/Open/LDs/123/123-LD-1138.pdf.

the REAL ID Act's requirements, the Maine legislature enacted a statute allowing the Secretary of State to issue REAL[3]

Threat to Privacy

REAL ID makes us all less safe by creating the illusion of security, while doing nothing to truly protect us from danger. It exposes all Americans to an increased danger of identity theft and fraud. It turns a document designed to ensure that only qualified drivers get behind the wheel into a domestic passport.

The REAL ID Act mandates that states include certain features on each driver's license or identity card that the state issues, and it requires that states collect and store vast amounts of personal information about people who apply for identification cards. The Act also requires states to retain a digital scan of source identity documents like birth certificates or passports for at least l0 years (or a paper copy for 7 years). That means a BMV worker must scan and store source documents for each applicant.

In perhaps its most invasive requirement, Title II, Section 202(d)(12) of the Act requires all states to "[p]rovide electronic access to all other States to information contained in the motor vehicle database of the State."[4] This means that even if LD 1360 was enacted and Maine continued issuing identification cards that do not comply with the REAL ID Act, the Act would require the Secretary of State to give the federal government access to information linked to those ID cards. For this reason, we are neither for nor against LD 1360 because it could give Maine residents the false belief that their data is safer than it is. We urge the committee to investigate whether there is a way to amend this bill to protect data of people who hold a non-REAL ID.

Threats to Religious Freedom and the Right to Travel

The REAL ID Act burdens Americans' constitutional right to travel, which the U.S. Supreme Court has recognized.[5] Indeed, the right to travel is so strong that it is "assertable against private interference as well as governmental action ... a virtually unconditional personal right, guaranteed by the Constitution to us all."[6]

Moreover, the REAL ID Act's requirement, without any exemption, that a digital photograph appear on each identification card, violates the religious beliefs of several religious groups. It forces the Amish, Mennonites, Muslim

---

[3] 29-A MRSA §1260.
[4] Title II, Sec. 202(d)(12) & (13), *available at* http://govinfo.gov/content/pkg/COMPS-16376/pdf/COMPS-16376.pdf.
[5] *Saenz v. Roe*, 526 U.S. 489, 498 (1999) ("the 'constitutional right to travel from one State to another' is firmly embedded in our jurisprudence).
[6] *Shapiro v. Thompson*, 394 U.S. 618, 89 (1969).

women, and certain conservative Christian sects to choose between their free exercise of religion and right to travel. The regulations state that to receive a REAL ID, every applicant must have a photo taken. While the regulations acknowledge religious objections, they do not offer a real solution to this constitutional problem instead they assert that states can provide religious objectors with non-REAL ID compliant licenses.

<u>Conclusion</u>

REAL ID is an apt illustration of the adage that "those who trade a little liberty for a little security will lose both." REAL ID is a misguided approach to keeping American's safe. Building systems to track, monitor, and judge the lives of every resident will only jeopardize our privacy and expose us to new dangers. REAL ID does not make us safer, it only makes us less free. Moreover, no Maine resident should be forced to choose between their religious beliefs and the need to use an ID card to freely move about the country, enter a federal building, and operate in society in a myriad of other ways.

We urge you to vote for LD 160 and consider amending LD 1360 to protect Maine people's privacy from REAL ID tracking if they elect to have a non-REAL ID.